

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-05-2016

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.17863 OF 2016

G.P.M.J.Gabriel Peter Ravi

... Petitioner

-Vs-

1. Enforcement Directorate,
rep.by its Joint Director of Enforcement,
(Prevention of Money Laundering Act 2002),
3rd Floor, 3rd Block, Shastri Bhavan,
No.26, Haddows Road,
Chennai-600 006.

2. Deputy Director,
O/o.Joint Director,
Chennai Zonal Office,
2nd and 3rd Floor, 'C' Block,
Murugesu Naicker Complex,
No.84, Greaves Road, Thousand Lights,
Chennai-600 006.

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records relating to the impugned order in F.No.ECIR/CEZO/08/2013, dated 28.01.2016, issued by the second respondent and on the file of the first respondent as far as the petitioner is concerned.

For petitioner : Mr.A.S.Baalaji

For respondents : Mrs.G.Hema

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O R D E R

The challenge in this Writ Petition is to the provisional attachment order passed by the second respondent against the petitioner, under Section 5 (1) of the Prevention of Money Laundering Act 2002, in short, "the Act".

2. The petitioner's property was attached, pursuant to the registration of a complaint against one Vijayakumar and others, followed by a case registered by CBI, in which chargesheet was also filed.

3. Learned counsel for the petitioner would submit that the petitioner is in no way connected with the case, but, however, his property has been attached. He would further submit that the petitioner has given Power of Attorney in favour of one R.Punithavathi, wife of S.Ravi, in respect of a property situated in Abhirami Nagar, Neithavayal Village, Thiruvottiyur Taluk; the said Ravi is an accused in the case, and, therefore, the property of the petitioner cannot be attached.

4. Conversely, Mrs.G.Hema, learned counsel for the respondents, would submit that the Writ Petition is not maintainable, as the impugned order is only a provisional attachment order, for which, the petitioner has to appear before the adjudicating authority and, only on his appearance before the said authority, adjudication would be done. She would further submit that the even order passed on adjudication is subject to appeal under Section 26 of the Act, but, the petitioner, without appearing before the adjudicating authority and pursuing the remedy under the Act, has straightaway approached this Court, which cannot be countenanced.

5. Heard the learned counsel for the parties and perused the material available on record, including the order impugned.

6. As per the provisions of the Act, the petitioner is supposed to appear before the adjudicating authority. Further, the impugned order being only a provisional attachment order, the adjudicating authority, only on appearance of the petitioner before it, would decide as to whether the said order is to be sustained or vacated. Also, even if the adjudicating authority passes an order against the petitioner, an appeal remedy is available to him under Section 26 of the Act. When appropriate remedies are available comprehensively under the Act, the petitioner cannot bypass the same and invoke Article 226 of the Constitution of India. Therefore, this Writ Petition is dismissed. No costs. Consequently, the connected W.M.P.Nos.15555 and 15556 of 2016 are closed.

7. It is made clear that since the hearing of the matter has been posted for tomorrow i.e., 13-05-2016 before the adjudicating authority, the authority concerned is directed to issue fresh notice of hearing to the petitioner, hear him in person, and pass orders on merit and in accordance with law.

Sd/-
Assistant Registrar(CS IV)

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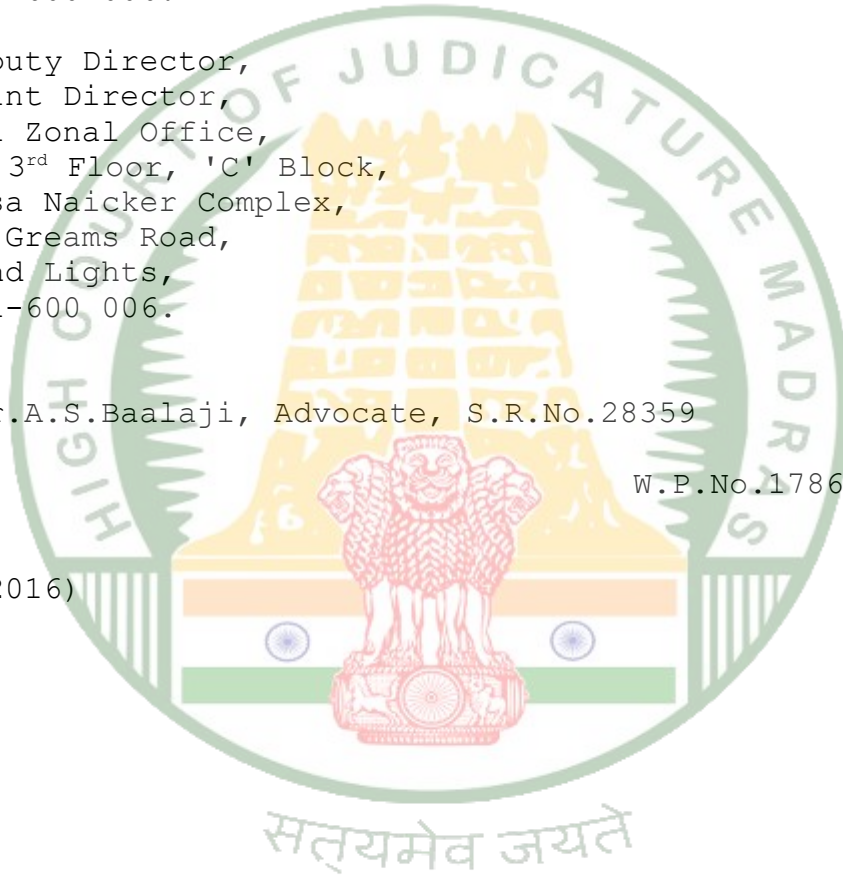
To

1. The Joint Director of Enforcement,
Enforcement Directorate,
(Prevention of Money Laundering Act 2002),
3rd Floor, 3rd Block,
Shastri Bhavan,
No.26, Haddows Road,
Chennai-600 006.
2. The Deputy Director,
O/o.Joint Director,
Chennai Zonal Office,
2nd and 3rd Floor, 'C' Block,
Murugesu Naicker Complex,
No.84, Greaves Road,
Thousand Lights,
Chennai-600 006.

+1cc to Mr.A.S.Baalaji, Advocate, S.R.No.28359

W.P.No.17863 OF 2016

SK(CO)
CA(06/06/2016)



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