

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2016

CORAM:

THE HON 'BLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.25922 of 2016

P.Karuppusamy

... Petitioner

Versus

The Joint Director,
Directorate of Enforcement,
Shastri Bhavan, 3rd Floor,
3rd Block, No.26 Haddows Road,
Chennai - 600 006

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondent to revoke the confirmation of provisional attachment order, dated 22.09.2014, passed by the respondent.

For Petitioner : Mr. C.Prakasam

For Respondents : Mr. M.Dhandapani

O R D E R

Heard Mr. C.Prakasam, learned counsel appearing for the petitioner and Mr.M.Dhandapani, learned Standing Counsel, appearing for the respondent.

2. The facts, leading to the filing of this writ petition, are as follows:-

The Joint Director, Directorate of Enforcement, Chennai, under Section 5 (1) of the Prevention of Money Laundering Act, 2002 (Central Act 15 of 2003) (hereinafter will be referred to as "the Act") has passed an order of Provisional Attachment No.14 of 2014 dated 22.09.2014 against the petitioner.

3. The petitioner would state that the said official has registered a case against M/s.Sri Pamba Spinning Mills Pvt. Ltd., under the provisions of the Act, alleging that, the part of proceeds of crime, to the tune of Rs.5,01,49,000/-, has been invested in M/s.Sakthi Aiswarya Spinning Mills Limited and thereby, the immovable assets of the company to that extent are liable for attachment under Section 5 (1) of the

Act, and further adjudication and confiscation, in terms of Section 8 of the Act.

4. The learned counsel for the petitioner would submit that, Arbitration Proceedings were also initiated in Arb.O.P.No.21 of 2012, dated 05.10.2012, on the file of the learned Principal District Judge, Tiruppur, dismissing the petition filed to set-aside the Award passed by the Sole Arbitrator in A.P.No.1 of 2009, dated 15.07.2009. This was challenged in C.M.A.No.3109 of 2012 and vide judgment, dated 05.06.2015, a learned single Bench of this Court has dismissed the appeal filed by Mr.G.Srinivasan.

5. It is the further submission of the learned counsel for the petitioner that the petitioner has also approached this Court, by filing CrI.O.P.No.28006 of 2015, against the Additional Superintendent of Police, CBI, Bangalore, for return of: (i) Document No.97 of 1980, dated 11.02.1980, (ii) Document No.98 of 1980 dated 11.02.1980, (iii) Document No.1164 of 1979, dated 30.11.1979, (iv) Document No.1165 of 1979, dated 30.11.1979, (v) Document No.335 of 1995, dated 04.04.1995 and (vi) Document No.664 of 1986, dated 04.06.1986 and this Court vide order, dated 29.02.2016, has passed the following order:-

"19. In view of the foregoing, it is ordered as under:

(i) the respondent will hand over the documents, viz., Document No.97 of 1980, dated 11.02.1980, Document No.98 of 1980 dated 11.02.1980, Document No.1164 of 1979, dated 30.11.1979, Document No.1165 of 1979, dated 30.11.1979, Document No.335 of 1995, dated 04.04.1995 and Document No.664 of 1986, dated 04.06.1986 to the learned II Additional Sessions Judge / Special Judge (CBI Cases), Coimbatore.

(ii) The learned Judge will return the said documents to the petitioner, after obtaining an undertaking from him that he will produce them as and when so ordered by the Court."

6. It is the further submission of the learned counsel for the petitioner that in the light of the above said orders, the provisional attachment, which was confirmed, is liable to be set-aside and hence, came forward to file this writ petition.

7. Mr. M.Dhandapani, learned Standing Counsel appearing for the respondent would contend that as against the order confirming the provisional attachment, an appeal in Appeal No.FPA/PMLA/818/CHN/2015 was preferred by M/s.Sakthi Aiswarya Spinning Mills Private Limited against The Directorate of Enforcement, Chennai, and the same was pending before the

appellate authority, viz., Money Laundry Appellate Tribunal at New Delhi. He would further contend that though the case was listed for hearing on 06.05.2016, the petitioner did not appear and therefore, it was adjourned to 15.09.2016. In the light of the fact that an alternative remedy is available, the learned Standing Counsel for the respondent prays for dismissal of this writ petition.

8. This Court has carefully considered the rival submissions made by the learned counsel for both sides and perused the materials available on record.

9. In the light of the above said facts and circumstances, this Court, without going into the merits of the claim projected by the petitioner or by the respondent, is of the view that it would suffice to direct the appellate authority to dispose of the appeal at an early date.

10. In the result, the writ petition is disposed of and the appellate authority, viz., the Tribunal, is directed to dispose of the appeal in Appeal No.FPA/PMLA/818/CHN/2015, in accordance with law, and pass final orders, as expeditiously as possible and not later than ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the persons concerned. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Joint Director, Directorate of Enforcement,
Shastri Bhavan, 3rd Floor,
3rd Block, No.26 Haddows Road,
Chennai - 600 006

2. The Registrar / Officer in-charge,
Money Laundry Appellate Tribunal,
New Delhi
(Appeal No.FPA/PMLA/818/CHN/2015)

+1cc to Mr.C.Prakasam, Advocate, S.R.No.43965

W.P.No.25922 of 2016

SR(CO)

CA(17/08/2016)

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