

**HON'BLE THE ACTING CHIEF JUSTICE
RAMESH RANGANATHAN**

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT APPEAL Nos.1501, 1499, 1502 OF 2016, 15 & 16 OF 2017

AND (SR) Nos.248483, 248994, 249070, 249211, 249540 OF 2016

& 1310, 1503 AND 1533 OF 2017

COMMON JUDGMENT: (Per Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard the learned Additional Solicitor General, appearing on behalf of the appellants, and Sri C.V. Mohan Reddy, Sri L. Ravi Chander and Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf of the respondents, and, with their consent, all these appeals are being disposed of at the stage of admission.

By the orders under appeal the learned Single Judge, while relegating the respondents - writ petitioners to the remedy of a statutory appeal under Section 26 of the Prevention of Money Laundering Act, 2002 (hereinafter called the '2002 Act'), however restrained the appellants herein from proceeding further with the assets of the petitioners, either movable or immovable, till appeals were filed by the petitioners within the statutory period, and till the disposal of the stay applications that may be filed by them. The appellate authority, under the 2002 Act, was directed to dispose of the stay applications, that may be filed by the petitioners, independently without being influenced by the said orders.

All the learned Senior Counsel, appearing on behalf of the respondents - writ petitioners, would submit that appeals have since

been filed, by all of the respondents - writ petitioners herein, before the appellate authority under the 2002 Act, along with applications seeking stay of the orders impugned in the writ petitions; and these appeals are listed before the appellate authority, one of which is on 12-01-2017, and the remaining on 07-02-2017.

Elaborate submissions were put forth on behalf of the appellants by the learned Additional Solicitor General and, as the learned Senior Counsel appearing on behalf of the respondents - writ petitioners did not complete their submissions, we suggested to the learned Additional Solicitor General and the learned Senior Counsel appearing on behalf of the respondents - writ petitioners that as this Court would not be sitting from 07.01.2017 till 16.01.2017 in view of Sankranti Vacations, and as the orders under appeal are bereft of reasons, the writ petitions can be directed to be heard afresh so that reasoned orders may be passed therein on merits, including on the scope of the relevant provisions of the 2002 Act. While the learned Additional Solicitor General requested this Court to set aside the orders under appeals on this ground, all the learned Senior Counsel, appearing on behalf of the respondents - writ petitioners, submitted that such an order would put the petitioners in a position worse than they were in before the orders under appeal were passed.

We are satisfied that the questions urged before us, by the learned Additional Solicitor General, are of considerable importance, and necessitate consideration by the learned Single Judge in the first

instance, as the scope of enquiry, in an intra - Court appeal, under Clause 15 of the Letters Patent, is extremely limited. The orders under appeal are liable to be set aside as they are bereft of reasons, and the Writ Petitions must be restored to file for its admission and hearing afresh. At the same time, the orders now passed by us cannot result in the respondents - writ petitioners being left unprotected, and the Writ Petitions being rendered infructuous on the appellants taking delivery of their movable and immovable properties. While setting aside the orders under appeals, it is but appropriate that the interests of the respondents - writ petitioners are also safeguarded, albeit for a limited duration.

The order, impugned in the writ petitions, lists several immovable properties, shares and debentures in various companies and fixed deposits belonging to the persons named therein. In so far as the fixed deposits are concerned, learned Additional Solicitor General, and the learned Senior Counsel appearing on behalf of the respondents - writ petitioners agree that the proceeds of these fixed deposits have already been withdrawn by the Enforcement Directorate. In so far as the immovable properties are concerned, Rule 5 of the Prevention of Money Laundering (Taking Possession of Attached or Frozen Properties confirmed by the Adjudicating Authority) Rules, 2013 (the “2013” Rules for short) prescribes the manner in which its possession must be taken. The appellants herein are permitted to take action in accordance with Rule 5 of the 2013

Rules subject, however, to the condition that they shall not forcibly take delivery of these immovable properties, from the respondents - writ petitioners, before 31.01.2017.

In so far as shares and debentures, in the various companies listed in the impugned order, are concerned, Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf of the respondents - writ petitioners, would submit that, even before an Order of Provisional Attachment was passed, M/s. Sandur Power Company Private Limited had sold their shares in M/s. Reliance Industries Limited, M/s. NMDC Limited and M/s. Cairn India Limited (referred to at serial Nos.8 to 10 in the table relating to movable properties). As these shares are said to have been sold, even prior to the order of provisional attachment, no orders need be passed in this regard. With regards shares and debentures in the companies, listed at serial Nos.1 to 7 and 11 (of the table relating to movable properties) are concerned, all these companies are directed not to pay either interest or dividend to the parties, referred to as the owner of the shares/debentures in the said table, till 31.01.2017. It is open to the appellants to inform the companies, referred to at serial No.1 to 7 and 11 of the aforesaid table, of their obligations under this order.

The orders now passed by us shall remain in force only till 31.01.2017 and, in the absence of any order being passed hereinafter either by the appellate authority under the 2002 Act or by the learned Single Judge restraining them from taking delivery of the movable and

immovable properties referred to in the impugned orders, it would be open to the appellants herein to take action in terms of the order, impugned in the Writ Petition, and in accordance with law. We make it clear that both the learned Single Judge before whom all these writ petitions shall now be listed and the appellate authority under the 2002 Act, before whom the appeals, along with interlocutory applications seeking stay of the operation of the order impugned in the writ petition, are said to have been filed, shall consider the interlocutory applications, filed by the respondents - writ petitioners, on its merits uninfluenced by any observations made in the order now passed by us. Needless to state that it is always open to the respondents - writ petitioners herein to request the learned Single Judge to take up all these Writ Petitions for admission, and for orders to be passed in the interlocutory applications, at an early date.

The orders under appeals are set aside, and all the appeals are disposed of accordingly. No order as to costs. As a sequel thereto, Miscellaneous Applications, if any, pending in these Writ Appeals stand disposed of.

RAMESH RANGANATHAN, ACJ

A. SHANKAR NARAYANA, J

January 5, 2017.
Mgr