

CWP No. 12045 of 2016

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 12045 of 2016
Date of Decision : 14.03.2017**

Shri Paramdeep Singh and others

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: ***HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL***

Present: Mr. Gurpreet Singh Dhillon, Advocate and
 Mr. Hemant Shah, Advocate for the petitioners.

 Mr. Sourabh Goel, Senior Standing Counsel
 for the respondents-UOI.

S.J. VAZIFDAR, C.J.(Oral)

The petitioners have challenged an order of the Appellate Tribunal (PMLA) refusing to restore possession of the premises, which they claimed are residential premises and which have been attached under the Prevention of Money Laundering Act, 2002 (for short 'PMLA').

The petitioners had filed a writ petition before the Delhi High Court in which they had challenged the constitutional validity of various provisions of the PMLA. They had also sought in that writ petition an order quashing a criminal complaint filed under Section 45 for prosecution and punishment of offences under the PMLA and all proceedings emanating therefrom pending before the Sub Judge PMLA, Patiala House Court, New

Delhi as well as for release of all attached properties under the PMLA.

Learned counsel appearing on behalf of the respondents stated that the petitioners having availed a remedy before the Delhi High Court ought not to be permitted to seek the same reliefs before this Court.

The learned counsel appearing on behalf of the petitioners stated that the reliefs claimed in respect of the attachment was only based upon and in the event of the petitioners succeeding with respect to the main relief, namely, the challenge to the constitutional validity to the provisions of the PMLA and quashing of the criminal complaint. In other words, they stated that they did not challenge in that writ petition the order of attachment itself. In the circumstances, they contend that this writ petition, which challenges only the order of the Appellate Tribunal refusing to restore possession, is maintainable.

The relief sought would require various facts to be considered such as the presence of the gold in the garden and the source of the same. With a view not to prejudice either party we refrain from making any observation on the merits of the case.

Learned counsel appearing on behalf of the petitioners offered to file an affidavit disclosing the value and the source of the gold as well as the reasons for having stored the same in the garden.

Section 42 of the Act reads as under :-

“42. Appeal to High Court – Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law or fact arising out of

such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation – For the purposes of this section, “High Court” means-

- (i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and*
- (ii) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.”*

Section 42 entitles the person aggrieved to file an appeal before this Court against “any decision or order of the Appellate Tribunal”. This right of appeal is not restricted to final orders passed by the Appellate Tribunal. An appeal is maintained even against interim orders.

The respondents contended that it was a final order. However, it would not make any difference even if it was an interim order. The property in question was attached by the Deputy Director (Enforcement) and forwarded to the Adjudicating Authority who confirmed the order of attachment. The petitioners challenged the same by filing an appeal under Section 26 before the Appellate Authority (PMLA). In this appeal an interim application was taken out for restoration of the possession. The same was rejected by the Appellate Tribunal. We are informed the next date of hearing of the appeal itself is 12.05.2017.

In the circumstances, the petition is disposed of with liberty to the petitioners to avail the remedy of an appeal under Section 42 of the Act.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

14.03.2017
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Whether speaking/reasoned?	Yes
Whether reportable?	Yes