

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 152 OF 2018

M/s. Highstreet Securities Pvt. Ltd. ... Petitioner
Versus
State of Goa & Ors. ... Respondents

Shri Wilbur Menezes, Advocate for the Petitioners.
Shri S. R. Rivankar, Public Prosecutor for the Respondents.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 12th October, 2018

ORAL ORDER :

It is seen on a perusal of the impugned order that the respondents/Officers do not have the power to seal the premises in question under Section 102 of the Criminal Procedure Code or any other provision of the Criminal Procedure Code and for that matter under the provisions of the Immoral Traffic (Prevention) Act, 1956. In the event the respondents wanted to seal the premises, they had to follow the procedure as prescribed under the Immoral Traffic Act. In view thereof, the impugned order cannot be sustained and is therefore quashed and set aside.

2. Shri W. Menezes, learned Advocate for the petitioner placed reliance on the Full Bench Judgment of this Court in **Sudhir Vasant Karnataki V/s. State of Maharashtra [2010**

SCC OnLine Bom 1808], where the Full Bench had clearly held that the expression "any property" used in Sub-section (1) of Section 102 of the Criminal Procedure Code does not include "immovable property" and consequently that the Police Officer cannot take control of any immovable property which may be found under circumstances which create suspicion of the commission of any offence.

3. Shri S.R. Rivankar, learned Public Prosecutor submits that the property was seized as a preventive measure and in any event the Officers concerned had moved the learned JMFC under Section 18 of the Immoral Traffic Act.

4. In the circumstances therefore, the petition is allowed. The impugned order is quashed and set aside with no order as to costs. The learned Trial Court i.e. the Office of the Deputy Collector shall however not be influenced by the observations made by this Court while dealing with the inquiry under Section 18 of the Immoral Traffic Act.

NUTAN D. SARDESSAI, J.

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