

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5170 OF 2018

The Cosmos Co-op. Bank Ltd.

...

....Petitioner

V/S

The Union of India & Ors.

....Respondents

...

Mr. Joel John Carlos a/w Mr. Yeshwant Dhanegave for Petitioner.
Mr. Dharmesh Joshi for the Respondent Nos.1 and 2.

...

**CORAM : A.A. SAYED &
V.L. ACHLIYA, JJ.**

DATE : 04 JULY 2018.

ORDER:

1 The substantive prayer in the Petition reads as follows:

“a. That this Hon'ble Court be pleased to issue a Writ in the nature of Mandamus/Quo Warrant or any other appropriate writ, order or direction, calling for the records and proceedings of the impugned Provisional Attachment Order dated 13/03/2018 passed by the Deputy Director, Directorate of Enforcement, Mumbai Zone-II, Under section 5(1) of the Prevention of Money Laundering Act, 2002 regarding the said premises and the said Flat and after examining its legality, validity & correctness of the same, this Hon'ble Court be pleased to quash and set aside the same.”

2. The Directorate of Enforcement has registered a case of money laundering vide ECIR/01/MZO/2016 under the provisions of the Prevention

of Money Laundering Act, 2002 against one M/s Samruddha Jeevan Foods India Ltd, Pune and it's Directors and inter alia attached the properties viz- Flat No.1202 Wing P4, Empire Estate, CTS No.4510/1, Chinchwad, Pune 411 019, and Office Nos.8 to 14 total admeasuring 134.24 sq.mt. situated at 1st floor, Pride Plaza, Survey No.157, Hissa No.D/1A/1, CTS No.5723, Kharalwadi, Pimpri Waghere, Taluka Haveli, District Pune, as proceeds of crime which the Petitioner Bank claims are its secured assets against which it had granted financial assistance to Respondent Nos.3, 4 & 5 herein.

3. The Petitioner Bank has been served with the impugned provisional attachment order dated 13 March 2018 passed by the Deputy Director, Directorate of Enforcement, Mumbai Zone II, under section 5 (1) of the Prevention of Money Laundering Act, 2002.

4. The Petitioner Bank has also been served with a show cause notice dated 17 April 2018 why the provisional attachment order be not confirmed. The Petitioner Bank has filed its Reply dated 28 May 2018 to the show cause notice placing its objections on record. We are informed that the matter before the Adjudicating Authority is tomorrow that is 5 July 2018. Since the matter is at the stage of show cause notice, we are not inclined to entertain the Petition. We therefore dispose of the Petition by passing the following order:

ORDER

(i) The Adjudicating Authority shall decide the show cause notice after considering the objections raised by the Petitioner Bank in its Reply dated 28 May 2018 to the show cause notice and after hearing the Petitioner Bank.

(ii) In the event the order is adverse to the Petitioner Bank no final orders shall be passed in ECIR/01/MZO/2016 for a period of four weeks in relation to the subject properties.

(iii) We make it clear that we have not expressed any opinion on the merits of the matter. All contentions are kept open.

5. The Petition to stand disposed of in the aforesaid terms.

(V.L. ACHLIYA, J.)

(A.A. SAYED, J.)

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