

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6686 OF 2018

Rajuram Purohit

... Petitioner

Vs

1 Union of India & Anr.

... Respondents

Mr. Prakash Shah with Mr. Jas Sanghvi i/b Ms. Neha S. Ahuja for the Petitioner.

Mr. Pradeep S. Jetly for the Respondents.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

MONDAY, 2ND JULY, 2018

P.C. :

1 We have heard both sides in this matter and perused the affidavit-in-reply tendered by Mr. Jetly.

2 The petitioner before this Court complains that without any firm order and following an adjudication, the respondents have proceeded to attach the immovable property which is subject matter of this petition. This is in anticipation of the petitioner's alleged involvement in smuggling gold bars by

concealing them in air conditioners.

3 The details of such acts, the seizures and the systematic smuggling by concealing the gold bars in air conditioners is disclosed in paragraph 5 of the affidavit and the petitioner is supposed to have a nexus with those involved in such activities.

4 It is stated that the whole thing is orchestrated by the petitioner and one Amrutlal Kaluram Purohit.

5 If the petitioner is absconding, he is running a gold smuggling syndicate and these gold bars are concealed in some remote corner obscure small shops, then, we do not see who prevented these competent officials and senior enough to proceed in accordance with law. They possess enough powers in law, particularly of search and seizure and arrest as well. We are not impressed by affidavits being filed before this Court and setting out the magnitude of such alleged offences and acts involving parties like the petitioner. The promptitude with which the law must then punish such acts not only by proceeding under

criminal law, but also passing orders of adjudication and imposing penalties and fines is made impossible by filing affidavits and disclosing the mind of the adjudicating body itself. Such an exercise hardly impresses us.

6 When we strongly deprecated this and the case where the deponent says that 57 kilogram of gold bars valued at Rs.16.95 crores concealed in 57 air conditioners have been seized, the statements recorded, then, the least what is expected is that they should pass an order of adjudication and in accordance with law.

7 That having not been done, we called upon Mr. Jetly to justify this attachment of the immovable property.

8 Mr. Jetly, on instructions, says that the respondents are ready and willing to raise the attachment, but the petitioner must cooperate, in the sense, after the shop premises are de-sealed and opened, the respondent should be allowed to inspect the same and search and seize any articles if they are satisfied that these were used so as to indulge in the smuggling of gold

bars.

4 Mr. Shah appearing for the petitioner, on instructions, states that the petitioner will cooperate and assist the authorities in the event they want to carry out any inspection, inventory and, if satisfied, effect a seizure but the shop premises should not be attached in this manner and they be handed over to the petitioner for carrying out his business.

5 We see some justification in the stand of Mr. Shah appearing for the petitioner. If the petitioner is ready and willing to cooperate and assist in carrying out an inspection and inventory so also, if the law permits, further steps by the respondents, then, we direct that after the inspection and inventory is over, the respondents shall not attach or seal this property until they are empowered by law and post adjudication in the event there is any tax liability or penalty and fine to be recovered.

6 Let the needful in terms of our order and direction be done before the 7th of July, 2018, after which we will not allow the

seal to remain at the site and in the event the shop is not de-sealed or the seal is not removed, we would not hesitate to take action in contempt and also recommend initiation of disciplinary proceedings against the deponent of this affidavit, namely, the Deputy Director, Directorate of Revenue Intelligence.

7 The writ petition is disposed of with these directions.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.