

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1535 OF 2015

IN

CRIMINAL APPEAL NO. 149 OF 2015

Manish Shashikant Nadkar ... **Applicant**

V/s.

CBI ACB Pune and anr ... **Respondents**

Mr.Niranjan Mundargi i/b. Mr.Kunal D. Ambulkar for the applicant.

Mr. H. S. Venegaonkar for CBI (respondent no.1)

Mr.A.R. Kapadnis, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 6th JUNE 2018.

P.C. :

1. This is an application for return of property which was seized during the course of investigation and lying in custody of the prosecuting agency.

2. Heard the learned counsel appearing for the applicant/original accused as well as the learned counsel appearing for the CBI and the learned APP for the State.

3. The applicant came to be prosecuted and ultimately convicted of the offences punishable under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act. He is sentenced to suffer imprisonment for three years and to pay fine of Rs.1,00,000/-. The property to the tune of Rs.6,92,015/- was found to be disproportionated to known source of income of the applicant and the same was directed to be confiscated to the Government vide the impugned judgment and order dated 1st January,2015 passed in Special Case No.21 of 2007.

4. The learned counsel appearing for the applicant has submitted that Clause 6 of the operative portion of order dated 1st January, 2015 in Special Case No.21 of 2007 shows that the rest of the seized property was directed to be returned to the applicant/accused no.1, but the same has not been returned to the applicant. Mr. Mundargi, learned counsel for the applicant has tendered across the bar chart showing the property remaining to be returned to the applicant. The same is taken on record and marked as "x" for the purpose of identification.

5. As there is no appeal challenging the judgment and order dated 1st January, 2015 passed by the learned Special Court, Pune, in Special Case No.21 of 2007 by the prosecuting agency, there is no impediment in directing return of the remaining property in terms of Clause 6 of the

operative portion of the order in Special Case No.21 of 2007. The fine of Rs.1,00,000/- has already been deposited by the present applicant as seen from the copy of the impugned judgment and order. Therefore, the order;

:: ORDER ::

- (i) The application is allowed.
- (ii) The remaining property as stated in Clause 6 of the operative portion of order dated 1st January, 2015 passed in Special Case No.21 of 2007 be returned to the applicant/accused no.1.
- (iii) The application is accordingly disposed of.

6. Parties to act upon the authenticated copy of this order.

(A.M.BADAR J.)