IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1220 OF 2015

Indian Overseas Bank & Anr. …Petitioners
Versus
The Deputy Director and Ors. ...Respondents

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Mr. Aditya Pimple with Mr. T.N. Tripathi, Mr. Alok Mishra i/b. M/s. T.N. Tripathi and Co. for the Petitioners.
Mr. H.S. Venegaonkar for the Respondent No.1.
Mr. Shashank Trivedi i/b. M/s. Naik Naik and Co. for the Respondent No.2.
Mr. P.R. Yadav for the Respondent No.3.
Mr. R.S. Apte, Senior Advocate with Mr. A.A. Garge for the Respondent No.4-Union of India.

CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 13th AUGUST, 2018.

P.C.:-

Heard the learned counsels appearing for the respective parties.

2. The Petitioners have challenged the order dated 1st January, 2015 passed under sub-section (5) to sub-section (7) of section 8 or section 58B or sub section 2A of section 60 of the Prevention of Money Laundering Act, 2002. By the said order the Adjudicating Authority confirmed provisional attachment order dated 21st August, 2014 passed by the Respondent No.1 in respect of the property belonging to the

Respondent No.3.

3. It is the case of the Petitioners that the Respondent No.3 is their borrower. The Petitioners are the consortium of Indian Overseas Bank and the Punjab National Bank. It is their case that subject property was mortgaged to them by the Respondent No.3. It is also the case of the Petitioners that due to failure on the part of the Respondent No.3 to repay the loan, they initiated action under Section 13(2) and 13(4) of the SARFAESI Act and this was done prior to attachment order under Prevention of Money Laundering Act.

4. Mr. Venegaonkar, the learned counsel for the Respondent No.1-Deputy Director, Directorate of Enforcement, pointed out that against the impugned order is appealable under Section 26 (1)of the said Act and that the appeal can be filed by the Director or any person aggrieved by an order made by the Adjudicating Authority.

5. Section 26 (1) of the said Act stipulates that the Director or any person aggrieved by an order made by the Adjudicating Authority may prefer an appeal to the Appellate Tribunal. It is not in dispute that the Appellate Tribunal has been constituted in terms of Section 25

of the Prevention of Money Laundering Act, 2002. It has also been brought to our notice that the Respondent No.3 has already filed an appeal before the Tribunal.

6. It is thus evident that the Petitioners have alternative efficacious remedy. In that view of the matter, we are not inclined to entertain the petition. Hence, the following order:-

(i) The Petition is accordingly dismissed.

(ii) The Petitioners are at liberty to challenge the impugned order by filing an appeal before the Appellate Tribunal under Section 26 (1) of the Prevention of Money Laundering Act, 2002.

(iii) In the event, the Petitioners file an appeal within a period of four weeks from today, the Appellate Tribunal shall take endeavour to dispose of the said appeal as expeditiously as possible.

(iv) It is made clear that we have not gone into the merits of the matter and all points and contentions of the respective parties are expressly kept open.

(v) In order to enable the Petitioners to challenge the impugned order by filing an appeal, the interim order dated 20th April, 2018 shall remain in operation for a period of four weeks from today.

(vi) Since the Petitioners were prosecuting the remedy before this Court, the Appellate Tribunal shall condone the delay and decide the said appeal of the Petitioners on its own merits.

(SMT. ANUJA PRABHUDESSAI, J.) **(RANJIT MORE, J.)**