

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE G.JAYACHANDRAN

W.P.Nos.34206 to 34221 of 2017

and

W.M.P.Nos.38085 to 38090, 38092 to 38101 of 2017

HEERALAL ... PETITIONER in WP.34206/17

SHEELA BEGUM @ ASMA BEGUM ... PETITIONER in WP.34207/17

SHEELA BEGUM @ ASMA BEGUM ... PETITIONER in WP.34208/17

HEERALAL ... PETITIONER in WP.34209/17

SHRI.C.PANNEER MOHAMED ... PETITIONER in WP.34210/17

SHRI.C.PANNEER MOHAMED ... PETITIONER in WP.34211/17

SHRI C. ANWAR ALI ... PETITIONER in WP.34212/17

SHRI C. ANWAR ALI ... PETITIONER in WP.34213/17

SHRI C. NAGOOR HANIFA ... PETITIONER in WP.34214/17

SHRI C. NAGOOR HANIFA ... PETITIONER in WP.34215/17

SHRI.C.AZAD MOHAMED ... PETITIONER in WP.34216/17

SHRI.C.AZAD MOHAMED ... PETITIONER in WP.34217/17

SHRI.C.RAJKAPOOR ... PETITIONER in WP.34218/17

SHRI.C.RAJKAPOOR ... PETITIONER in WP.34219/17

C.RABEEK RAJA ... PETITIONER in WP.34220/17

C.RABEEK RAJA ... PETITIONER in WP.34221/17

Vs.

1.The Deputy Director,
Directorate of Enforcement,
Chennai Zonal Office,
3rd Floor, "C" Block,
Murugesu Naicker Complex,

84, Greams Road,
Chennai 600 006.

2.The Chair Person,
Adjudicating Authority,
Room No.25, 4th Floor,
Jeevan Deep Building,
Parliament Street,
New Delhi 11001.

.. Respondents in all WP's

Writ Petitions are filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the case relating to the impugned Complaint filed on 14.11.2017 under section 5(5) of PMLA, 2002 in PAO No.21/2017, dated 30.10.2017, in File No.ECIR/ CEZO/ 03/2014 filed by the 1st respondent before 2nd respondent and to quash the same(in WPs No.34206, 34207, 34210, 34214, 34217 & 34219 of 2017)

Writ Petitions are filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the case relating to the impugned order No.21 of 2017 in No.ECIR/ CEZO/ 03/2014, dated 30.10.2017 passed by the 1st respondent and to quash the same, so far as it relates to the provisional attachment under Section 5 of Prevention of Money Laundering Act, 2002, of the properties of the petitioners herein (in WP No.34208, 34209, 34211, 34215, 34220 & 34213 of 2017)

Writ Petitions are filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the case relating to the impugned complaint filed on 14.11.2017 in PAO No.21 of 2017, dated 30.10.2017 in File No.ECIR/ CEZO/ 03/2014 filed by the 1st Respondent and to quash the same, so far as it relates to the provisional attachment under Section 5 of Prevention of Money Laundering Act, 2002, of the properties of the petitioners herein (in WP No.34212 of 2017)

Writ Petitions are filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the case relating to the impugned order No.21 of 2017 in ECIR/ CEZO/ 03/2014, dated 30.10.2017 passed by the 1st respondent and to quash the same, so far as it relates to the petitioners herein (in WP No.34216 & 34218 of 2017)

Writ Petitions are filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the case relating to the impugned Complaint filed on 14.11.2017 under section 5(5) of PMLA No.21/2017, dated 30.10.2017, in ECIR/ CEZO/ 03/2014 passed by the 1st respondent and to quash the same, so far as it relates to the provisional attachment under Section 5 of Prevention of Money Laundering Act, 2002, of the properties of the petitioners herein (in WP No.34221 of 2017)

For Petitioner : Mr.T.R.Ramesh in WP.34206 to 34209 & 34220 & 34221 of 2017

For Petitioner :MR.J.Shankar Raman, in WP.34210 & 34211 OF 2017

For Petitioner :MR. T. Sundaranathan, in WP.34212 to 34218 of 2017

For Respondents : M/s.Hema,
Standing counsel.

COMMON ORDER

[Common Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard the learned counsel appearing for the parties and perused the materials placed on record.

2.These writ petitions are squarely covered by the earlier order passed by this Court, dated 06.02.2018, in W.P.Nos.34172 to 34175 of 2017 [R.Kasaniya Begum v. The Deputy Director, Directorate of Enforcement, Chennai Zonal Officer, Chennai and others], which were filed by petitioners and they are the parties to the same impugned order of attachment and the prayer sought for is also identical. The operative portion of the said order reads as follows:

"2.Heard the learned counsel for the petitioners. For convenience, provisions relevant to decide the petition is extracted below:-

Section 2(u):- "Proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property"

Section 3:- "Offences of Money-laundering"

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it

as untainted property shall be guilty of offence of money-laundering.

Section 5(5):-

"5.The Director or any other officer who provisionally attaches any property under Sub-Section (1) shall, within a period of thirty days from such attachment, file a complaint stating the facts of such attachment before the Adjudicating Authority.

(i) Paragraph 1 of Part A and Part B of the Schedule, a report has been forwarded to a Magistrate under Section 173 of the Code of Criminal Procedure, 1973 (2 of 1974); or

(ii) Paragraph 2 of Part A of the Schedule, a police report or a complaint has been filed for taking cognizance of an offence by the Special Court constituted under sub-section (1) of Section 36 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985)."

3.Insofar as this case is concerned, after affording an opportunity to the petitioners under Section 50 and being satisfied that prima facie material against them and reason to believe that the petitioners are in possession of proceeds of crime, the complaint has been registered and it is under investigation besides adjudication for attachment.

4.Under these circumstances, it cannot be construed that the Authorities have no power under Section 3 or 5 to proceed against the petitioners or the complaint itself is bereft of material and liable to be quashed. It is for the petitioners to participate in the enquiry/investigation. On completion of investigation, it is always open to the petitioner to approach the appropriate Court under the appropriate provision of law, for redressal of his grievance, if any. Therefore, both on merits as well as on the facts of the case, these petitions are not maintainable and liable to be dismissed. Accordingly dismissed".

Thus, following the said order, these writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Director,
Directorate of Enforcement,
Chennai Zonal Office,
3rd Floor, "C" Block,
Murugesu Naicker Complex,
84, Greaves Road,
Chennai 600 006.

2.The Chair Person,
Adjudicating Authority,
Room No.25, 4th Floor,
Jeevan Deep Building,
Parliament Street,
New Delhi 11001.

+4cc to Mr.G.HEMA, Standing counsel, S.R.No.15620 TO 15623)
+1cc to Mr.T.SUNDARANATHAN, Advocate, S.R.No.15600
+1cc to Mr.J.SHANKAR RAMAN Advocate, S.R.No. 15599
+2cc to Mr.T.R. RAMESH, Advocate, S.R.No.15598 & 15601

ORDER MADE IN
W.P.Nos.34206 to 34221 of 2017 and
W.M.P.Nos.38085 to 38090, 38092 to 38101 of 2017

RV(CO)
TR(10/04/2018)

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