

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

W.P.Nos.29821 & 29822 of 2017

and W.M.P.Nos.32192 & 32193 of 2017

R.Yasar Arabath ..Petitioner in W.P.No.29821 of 2017
R.Rahuman ..Petitioner in W.P.No.29822 of 2017

Vs

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 110 001.

.. Respondents in both WPs

Prayer (in both WPs):- Petitions filed under Article 226 of the Constitution of India praying for 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 first 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.

For Petitioner : Mr.T.Ramesh (in both WPs)

For Respondents: Ms.G.Hema (in both WPs)
Special Public Prosecutor

COMMON ORDER

[Order of the Court was made by Dr. G.JAYACHANDRAN]

The learned counsel appearing for the petitioners submitted that the petitioners herein sons of C.Rabeek Raja, against whom FIR has been registered under the scheduled offence and now, the Directorate of Enforcement has found that proceeds of crime is in possession of these writ petitioners. Therefore, notice has been served on them to show cause why the provisional attachment shall not be made. Based on the voluntary statement and other materials collected during the enquiry, the Competent Authority believe that the properties found in the impugned orders are likely to be the proceeds of crime and if it is not provisionally attached before the adjudication, there is a possibility of concealing those properties. Hence the impugned order No.21/2017 dated 30.10.2017 has been passed against the petitioners.

3.It is contended by the learned counsel appearing for the petitioners that before passing the order of provisional attachment, another opportunity of hearing should have been given to them. Denial of opportunity amounts to violation of natural justice.

4. On perusal of the impugned order, this court could unable to find any violation. Before passing the order of provisional attachment the petitioners were given opportunity and only thereafter being satisfied that there are materials to believe the properties in the possession of the petitioners are likely to be proceeds of crime, the provisional attachment order has been passed to avoid transfer or concealment. The order of provisional attachment is strictly in conformity to Section 5 of the PMLA. The action of provisional attachment has been initiated by the competent authority only after registration of complaint of schedule offences namely Sections 120 B, 420, 467 and 471 of IPC r/w Sections 3 and 4 of the Explosive Substances Act. Further, it is only a provisional attachment order and if at all the petitioners have any merit to canvass, they can very well participate in the adjudication proceedings and prove that the properties in their possession are not proceeds of crime. Since the matter has been seized by the adjudication authority, we are restraining ourselves from expressing any view on the merit of this case except dismissing the writ petition as devoid of merits

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sk/maya

To

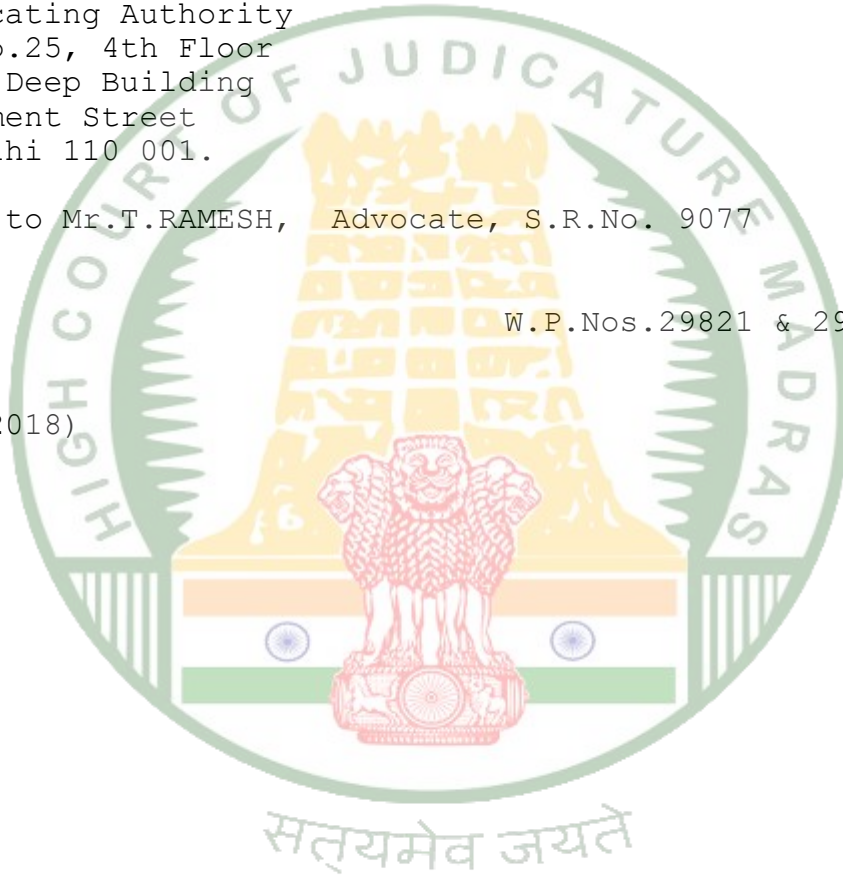
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+1cc to Mr.T.RAMESH, Advocate, S.R.No. 9077

W.P.Nos.29821 & 29822 of 2017

RR(CO)
TR(27/02/2018)



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