IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.1758 of 2018
Date of Decision: January 29, 2018

Chiman Lal ......Petitioner

versus

Union of India and others .....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SHEKHER DHAWAN.

***

Present: Mr.Sumeet Mahajan, Senior Advocate with
Mr.Amit Kohar, Advocate, for the petitioner.

-.-

Surya Kant, J. (Oral)

The petitioner seeks a direction to the Reserve Bank of India through its Assistant General Manager, Central Vista, Sector-17, Chandigarh to exchange 3250 specified bank notes of the value of Rs.500/- each and 2887 specified notes of the value of Rs.1000/- each in total valuing Rs.45,12,000/- which were demonetized vide Government of India notification dated 08.11.2016 and which were placed in the custody of the petitioner vide order dated 16.11.2016 passed by the JMIC, Budhlada, District Mansa, and also keeping in view the orders 10.01.2017 and 28.10.2017 passed by the above-mentioned Court, in terms whereof, the Reserve Bank of India and its authorities are obligated to act as per Rule-2 of the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017.

[2] A brief reference to the facts may be made.

[3] The petitioner has a small factory for manufacturing fibre sheets which is situated at Bareta, District Mansa, Punjab and house of the petitioner is situated at Budhlada, District Mansa. While he was returning from the factory on 04.08.2016, the petitioner was forcibly kidnapped for ransom by two persons, who were known criminals and extortionists of the

area. He was confined to a basement bunker with no window or door or any escape route for 17 days. The kidnappers contacted wife of the petitioner and demanded a ransom of Rs.1.0 crore for releasing the petitioner alive. An FIR No.38 dated 05.08.2016 regarding the petitioner's kidnapping was registered under Sections 365/506 & 364-A IPC.

[4] With a view to save the petitioner's life, his wife arranged Rs.1.0 crore from near relations which were paid to the kidnappers on 19.08.2016 with full knowledge, information and permission of the police. On receipt of that ransom amount, the petitioner was released on 20.08.2016. The police could arrest the kidnappers on 20.10.2016 and got recovered Rs.78,99,000/- from them which was a part of the ransom paid by the petitioner's family. The recovery includes a sum of Rs.45,12,000/- in Indian currency of Rs.500/- and 1000/- denomination, besides 19035/- in British Pounds; 10000 US Dollars and 10000 EUROs.

[5] Meantime, on 08.11.2016, the currency notes of Rs.500/- and Rs.1000/- ceased to be legal tender in terms of the notification issued by Central Government. The petitioner moved an application on 15.11.2016 for the release of the cash amount recovered from the kidnappers as it actually belonged to him. The learned JMIC, Budhlada vide order dated 16.11.2016 released a sum of Rs.45,12,000/- comprising Indian Currency and foreign currency on superdari in favour of the petitioner. The petitioner then moved another application on 06.12.2016 followed by second application on 02.01.2017 which was eventually allowed and permission was granted to him to deposit the banned Indian currency notes in the denomination value of Rs.500/- and Rs.1000/- with Reserved Bank of India so that those notes could be exchanged with the new notes/legal tender. The Court of JMIC,

Budhlada passed the order dated 10.01.2017 permitting the petitioner to exchange the specified bank notes of Rs.500/- and Rs.1000/- denomination, valuing Rs.45,12,000/- from Reserve Bank of India. The petitioner applied to respondent No.3 on 23.01.2017 on the strength of the said order and sought exchange of the specified bank notes. The Administrative and Nodal Officer of Reserve Bank of India Central Vista, Sector-17, Chandigarh, however, vide order dated 24.03.2017 rejected the petitioner's application. The petitioner thereafter made another representation on 08.04.2017 in accordance with Section 4(3) of the Specified Bank Notes (Cessation of Liabilities) Act, 2017, followed by reminder dated 18.04.2017.

[6] While his above-stated representation was pending, the Government of India, Ministry of Finance issued notification dated 12.05.2017 in exercise of its powers under Section 11 (1) read with Section 5 of the Specified Bank Notes (Cessation of Liabilities) Act, 2017, by which the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017 have been promulgated. The petitioner relies upon Rule 2 of these 2017 Rules in support of his claim for exchange of the demonetized currency notes.

[7] The petitioner relying upon the aforesaid notification again moved the Court of learned JMIC, Budhlada who has passed the order dated 28.10.2017 to be read in continuity of its previous order dated 10.01.2017, thereby directing the authorities in the Reserved Bank of India for exchange of the currency notes keeping in view the spirit of notification dated 12.05.2017. The petitioner applied to the Reserve Bank of India on 31.10.2017 with a copy of the order passed by JMIC, Budhlada but finding no response thereto, the instant writ petition has been filed.

[8] As the facts would speak for themselves, the petitioner is a victim of circumstances. Prima-facie, he appears to be entitled to the benefit of Government notification dated 12.05.2017 read with the orders passed by the subordinate Court at Budhlada in his favour. Since we have not called upon the respondent-bank at this stage, we do not express any final views on merits, rather deem it appropriate to dispose of this writ petition with a direction to respondent Nos.2 to 4 to consider the above-mentioned claim of the petitioner in the light of para-2(a) of the notification dated 12.05.2017 read with the orders passed by the JMIC, Budhlada and take an appropriate decision within a period of two months from the date of receiving a certified copy of this order.

[9] Ordered accordingly.

(SURYA KANT)
JUDGE

January 29, 2018 **(SHEKHER DHAWAN)**
mohinder **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No