$~50

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8689/2018

BARKHA BIMAL AGARWAL ..... Petitioner

Through: Mr Akhand Pratap Singh, Mr Bahul Kalra, Ms Aditi Mittal, Ms Meghna Sharma and Mr Arjun Raghuvanshi, Advocates.

versus

DIRECTORATE OF ENFORCEMENT AND ANR. ..... Respondents

Through: Mr Amit Mahajan, CGSC for UOI with Ms Mallika Hiremath, Advocate.

**CORAM:**
**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**<u>O R D E R</u>**

**% 20.08.2018**

**<u>CM No.33346/2018</u>**

1. Allowed, subject to all just exceptions.

**<u>W.P.(C) 8689/2018 & CM No.33345/2018</u>**

2. The petitioner has filed the present petition, *inter alia*, impugning a notice for the Eviction of premises dated 02.08.2018 (hereafter 'the impugned notice'), whereby the petitioner has been directed to vacate the property described as Penthouse No.2001/2101, Tower No.6, 20$^{th}$ Floor, Prem Nagar, Rustamzee Ozone, Goregaon (W), Mumbai -400062 (hereafter 'the property'). The petitioner states that she owns 50% of the said property

and the balance 50% is owned by her husband. Admittedly, the impugned notice for attachment had been issued in respect of the property of the petitioner's husband and not the petitioner. It is further stated that the impugned notice is limited for attachment of property to the extent of ₹96 lakhs whereas the property in question (the property) is valued at a much higher amount.

3. The learned counsel appearing for the petitioner also drew the attention of this Court to Rule 8 of the Prevention of Money-Laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013, which provides that in case the property is hypothecated or mortgaged or pledged to any bank or financial institutions, the authorized officer shall direct such bank, financial institutions to retain such property and any interest or dividend payable thereon. He states that the property was mortgaged to Bharat Co-operative Bank (Mumbai) Ltd. and, at best, the authorized officer could direct the said bank to retain the property. However, the petitioner could not be evicted from the same.

4. Mr Amit Mahajan, learned counsel appearing for the respondents states that the petitioner has an equally efficacious remedy by approaching the Appellate Tribunal, constituted under the Prevention of Money Laundering Act, 2002 within forty five days of receiving of the confirmation order (which, according to the learned counsel for the petitioner, was received on 01.08.2018) made by the Adjudicating Authority. Mr Mahajan, further states that the respondents will not take any coercive steps till the expiry of the said period.

5. In view of the above, the impugned order is stayed till the expiry of 45 days from 01.08.2018. However, in the event, the petitioner prefers an appeal to the Appellate Tribunal within the said period, the impugned order would not be given effect till the Appellate Tribunal decides the appeal or the interim application which may be preferred by the petitioner.

6. The petition and the pending application are disposed of in the above terms.

7. Order *dasti* under signatures of the Court Maser.

**VIBHU BAKHRU, J**

**AUGUST 20, 2018**
**MK**