

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 103 OF 2019.

Patrick Gabriel Byrne and anr.		Petitioners.
V/s.		
Union of India and ors.		Respondents.

Mr. Terence Anthony Vaz, Advocate for the Petitioners

Mr. Nikhil Vaze, Standing Counsel for Respondents No. 2 & 3.

***Coram : M.S. Sonak &
Prithviraj K. Chavan, JJ.***

Date : 28 January 2019.

P.C.:

Heard Mr. Vaz for the Petitioner and Mr. Vaze for Respondents No.2 and 3.

2. The main challenge in this Petition is to the Order-in-Original dated 10 October 2014. Mr. Vaze points out that as against the order dated 10 October 2014, the Petitioners had a right to present an appeal to the Special Director (Appeals). He points out that this position was clearly indicated in the Order-in-Original itself. On this ground, Mr. Vaze submits that the Petition may not be entertained.

3. Mr. Vaz, the learned Counsel for the Petitioners points out that the Petitioners, on 11 February 2015, have applied for setting aside the order dated 10 October 2014 on the ground that the same was issued *ex-parte*. He states that during the pendency of this application, the Respondents were not justified in confiscating the Petitioners' apartment.

4. Without going into the issue of maintainability or rather leaving the issue of maintainability open, we direct the adjudicating authority, who has issued the Order-in-Original dated 10 October 2014, to dispose of the Petitioners' application for setting aside the alleged *ex-parte* order dated 10 October 2014. Such application to be disposed of, on its own merits, in accordance with law as expeditiously as possible and in any case, within a period of two months from today.

5. All contentions of all parties are left open for determination by an appropriate authority.

6. At this stage, it is not possible to accede to Mr. Vaz's request for an interim relief. The Order-in-Original, on the basis of which the confiscation has taken place, was made on 10 October 2014 and since that date there is no interim relief in operation. But, however, we clarify that the action of confiscation will be subject to further

orders that will be passed by the Authorities in the matter.

7. Mr. Vaze states that this order will be communicated to the adjudicating authority no sooner the same is uploaded on the website of the High Court.

8. All concerned to act on the basis of an authenticated copy of this order.

9. The Petition is disposed of in the aforesaid terms. There shall be no order as to costs.

(Prithviraj K. Chavan, J.)

(M.S. Sonak, J.)