

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1555 OF 2016

Mrs. Pratima Chandrashekart Naikar & ors. ...Petitioners

Vs.

Mr.C. Chandrashekar Naicker and ors. ...Respondents

Mr. B.G.Tangsali I/by Sanjay Gawde for the petitioners.

Mr. Ajay S. Patil. APP for Respondent No.1.

Mr. H.S.Venegaonkar for Respondent No.2.

CORAM : SMT. BHARATI DANGRE, J.

DATE : 11TH OCTOBER, 2019

PC :

1. The grievance involved in the present writ petition revolves around the order passed by the Special Judge for CBI, Greater Mumbai in a Special Case No.35 of 2002 on an application moved in the Special Case seeking return of the amount of Rs.24,17,160/- with interest accrued on fixed deposit in terms of the Judgment delivered on

27.2.2013. The only justification offered by the learned Judge for rejection of the said application is that the appeal preferred by the accused vide Appeal No.419/2013 challenging the conviction is pending before the Hon'ble High Court. It is pertinent to note that while deciding the special case, the Special Court directed cash amount of Rs.24,17,160/- seized by the CBI from the house of Padma Vyas which was kept in fixed deposit be returned to the legal heirs of Padma Vyas and Rajesh Vyas after obtaining Succession Certificate from the appropriate court, after the appeal period is over. The learned counsel for the petitioners has placed on record two succession certificates which are procured by the legal heirs of the deceased Padma Vyas and her brother Rajesh Vyas in the year 2015 itself. Perusal of the said certificates disclose that they are entitled to succeed the amount mentioned in the two fixed deposits lying with Bank of Baroda, Crawford Market Branch, Mohammed Ali Road, Mumbai-3. Since the Succession Certificates are obtained, the pendency of the appeal by an accused cannot be put forth as ground for non considering and complying the directions of the Special Court as regards return of the

amount to the legal heirs of Padma Vyas and Rajesh Vyas. In such circumstances, the impugned order passed by the Special Judge for CBI, Greater Mumbai is quashed and set aside and applicants are held to be entitled to claim the amount of Rs.24,17,160/- along with interest accrued on the fixed deposits, in terms of the Judgment dated 27.2.2013 on production of Succession Certificates. Petition is accordingly disposed of.

(SMT. BHARATI DANGRE, J.)