

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM:

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

and

THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

Criminal Original Petition Nos.12504 and 12512 of 2019

and

Writ Petition Nos.15292 and 15293 of 2019

Crl.O.P.No.12504 of 2019:

1. Ms.Nithyavathy Venkatesan

2. M/s.Shanmuga Constructions & Enterprises Pvt. Ltd.,
(now renamed as S N India Pvt. Ltd.)
rep. by its Director Nithayavathy Venkatesan,
New No.23, Padmanabha Street,
T.Nagar, Chennai 600 017.

.. Petitioners/3rd and 4th Defendant

Vs.

1. The Deputy Director,
Directorate of Enforcement,
Govt. of India, Department of Revenue,
3rd Floor, C Block,
Murugesu Naicker Office Complex,
84, Greaves Road, Thousand Lights,
Chennai 600 006.

2. The Adjudicating Authority, PMLA,
Room No.26, 4th Floor,
Jeevan Dheep Building,
Parliament Street,
New Delhi 110 001.

... Respondents/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in O.C.No.1096/2019, dated 22.02.2019, in PAO No.1/2019 dated 31.01.2019 issued in ECIR/CEZO-I/10/2018, pending on the file of the 2nd Respondent, and quash the same as without illegal, wholly without jurisdiction, arbitrary and beyond the provisions of laws, in exercise of its inherent powers under Section 482 of Criminal Procedure Code, 1973.

Crl.O.P.No.12512 of 2019:

M/s.Chennai Properties & Investments Ltd.,
rep. by its Director, Mr.R.Muralikrishnan,
Meena Kampala Arcade, 3rd Floor,
A Block, B Wing,
113-114, Sir Theyagaraya Road,
T.Nagar, Chennai 600 017.

.. Petitioner/7th Defendant

Vs.

1. The Deputy Director,
Directorate of Enforcement,
Govt. of India, Department of Revenue,
3rd Floor, C Block,
Murugesu Naicker Office Complex,
84, Greaves Road, Thousand Lights,
Chennai 600 006.

2. The Adjudicating Authority, PMLA,
Room No.26, 4th Floor,
Jeevan Dheep Building,
Parliament Street,
New Delhi 110 001.

... Respondents/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in O.C.No.1096/2019, dated 22.02.2019 in PAO No.1/2019, dated 31.01.2019 issued in ECIR/CEZO-I/10/2018, pending on the file of the 2nd Respondent and quash the same, as without illegal, wholly without jurisdiction, arbitrary and beyond the provisions of laws, in exercise of its inherent powers under Section 482 of Criminal Procedure Code, 1973.

W.P.No.15292 of 2019:

M/s.Chennai Properties & Investments Ltd.,
rep. by its Director, Mr.R.Muralikrishnan,
Meena Kampala Arcade, 3rd Floor,
A Block, B Wing, 113-114, Sir Theyagaraya Road,
T.Nagar, Chennai 600 017.

.. Petitioner

Vs.

1. The Deputy Director,
Directorate of Enforcement,
Govt. of India, Department of Revenue,
3rd Floor, C Block,
Murugesu Naicker Office Complex,
84, Greaves Road, Thousand Lights,
Chennai 600 006.

2. The Adjudicating Authority,
Prevention of Money Laundering Department (PMLA),
Room No.26, 4th Floor, Jeevan Dheep Building,
Parliament Street, New Delhi 110 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records and quash the order under PAO No.1/2019, dated 31.01.2019 issued by the 1st Respondent under Section 5(1) of the Prevention of Money Laundering Act, 2002.

W.P.No.15293 of 2019:

1. Ms.Nithyavathy Venkatesan
2. M/s.Shanmuga Constructions & Enterprises Pvt. Ltd.,
(now renamed as S N India Pvt. Ltd.)
rep. by its Director, Nithayavathy Venkatesan,
New No.23, Padmanabha Street,
T.Nagar, Chennai 600 017. .. Petitioners

Vs.

1. The Deputy Director,
Directorate of Enforcement,
Govt. of India, Department of Revenue,
3rd Floor, C Block,
Murugesu Naicker Office Complex,
84, Greaves Road, Thousand Lights,
Chennai 600 006.
2. The Adjudicating Authority,
Prevention of Money Laundering Act (PMLA),
Room No.26, 4th Floor,
Jeevan Dheep Building,
Parliament Street,
New Delhi 110 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records and quash the order under PAO No.1/2019, dated 31.01.2019 issued by the 1st Respondent under Section 5(1) of the Prevention of Money Laundering Act, 2002.

For Petitioner(s) in all cases: Mr.AR.L.Sundaresan,
Senior Counsel
for Mr.S.Ravi

For Respondents in all cases : Mr.N.Ramesh,
Special Public Prosecutor

C O M M O N O R D E R

(Order of the Court made by M.M.SUNDRESH, J.)

The above cases have been filed challenging the provisional attachment order passed by the Adjudicating Authority.

2. Admittedly, original proceedings are pending before the Adjudicating Authority. In such view of the matter, as held by this Court in W.P.No.19929 of 2019, by an order dated 15.07.2019, the aforesaid pending proceedings will have to be completed and therefore, the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India is not required to be invoked.

3. In view of the above, this Court directs the Adjudicating Authority, viz. the 2nd Respondent herein, to conclude the proceedings within a period of two months from the date of receipt of a copy of this order.

4. It is needless to state that the Adjudicating Authority shall consider all the materials placed before it, including those which are relied upon by the Deputy Director, Directorate of Enforcement.

5. Above Criminal Original Petitions and Writ Petitions are disposed of with the above direction and observation. There shall be no order as to costs in the Writ Petitions. Consequently, connected CrI.M.P.No.6507 of 2019 in CrI.O.P.No.12504 of 2019, CrI.M.P.No.6511 of 2019 in CrI.P.No.12512 of 2019, W.M.P.No.15284 of 2019 in W.P.No.15292 of 2019, W.M.P.Nos.15285 & 15286 of 2019 in W.P.No.15293 of 2019 are closed.

(aeb) 23.10.2019

Being Mentioned

This matter is listed today (i.e. 22/11/2019) under the caption "for Being Mentioned" in pursuance of order dated 23.10.2019 and made herein and in the presence of the aforesaid counsel for the Petitioner this Court made the following order:

This matter is listed today under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioner.

2.The learned counsel appearing for the petitioner submitted that paragraph 4 of the order dated 23.10.2019 passed in CrI.O.P.Nos.12504 and 12512 of 2019 and W.P.Nos.15292 and 15293 of 2019 will have to be clarified with respect to the documents sought to be summoned at the instance of the petitioner.

3.We make it clear that if such a request is made it is for the adjudicating authority to consider the same as we have not passed any specific order to the effect that only existing material placed alone should be considered. We also make it clear that the adjudicating authority may consider the scope and applicability of Section 11 of the Prevention of Money Laundering Act, 2002 in this regard.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

(aeb)

To:

1. The Deputy Director,
Directorate of Enforcement,
Govt. of India, Department of Revenue,
3rd Floor, C Block, Murugesu Naicker Office Complex,
84, Greaves Road, Thousand Lights,
Chennai 600 006.
2. The Adjudicating Authority,
Prevention of Money Laundering Act (PMLA),
Room No.26, 4th Floor, Jeevan Dheep Building,
Parliament Street, New Delhi 110 001.

+2cc to Mr.N.Ramesh, Advocate SR.No.89133, 89134

+4cc to Mr.S.Ravi, Advocate SR.No.89133,89064,89065,89061

CrI.O.P.Nos.12504 & 12512
of 2019
and W.P.Nos.15292 & 15293 of 2019

SR(CO)
GMY(13/11/2019)
SP(27/11/2019)