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

+ **CRL.A. 224/2019**

**THE DEPUTY DIRECTOR, DIRECTORATE
OF ENFORCEMENT**

..... Appellant

Represented by: Mr. Amit Mahajan, CGSC with Mr.
Olson Nair, Mr. Dhruv Pande and Ms.
Malliika Hiremath, Advocates.

versus

MUKESH JAIN & ANR

..... Respondent

Represented by:

**CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA**

ORDER
28.02.2019

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Crl.M.A. No. 4597/2019 (Exemption)

Allowed, subject to all just exceptions.

CRL.A. 224/2019 and Crl.M.A. No. 4596/2019

1. Learned counsel for the appellant states that the Appellate Tribunal has no jurisdiction to pass an interim order while entertaining an appeal without giving a finding of a prima facie case.
2. Ground 'K' of the appeal notes, "Because even though that Appellate Authority does have the power to take ad-interim measures, the same have to be justified on the touch stone of balance of convenience".

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3. The impugned order reads as under:-

“ Fresh appeal has been filed by the appellant under Section 26 of Prevention of Money Laundering Act, 2002 against the order dated 8th October, 2018. Issue notice to the respondent. Mr. Atul Tripathi, Advocate accepts the notice and seeks time to file the reply. Let the same be done within six weeks with an advance copy to the counsel for the appellant who may file the rejoinder within four weeks thereafter.

List on 26th February, 2019.

Counsel for the appellant pressing for interim order and states that the attached property which is the subject matter was purchased on February, 2017 and the sale deed was registered on July, 2017. An undertaking has been given on behalf of the appellant that till the disposal of the appeal the appellant shall not create any third party interest in any manner directly or indirectly. It is stated by the appellant that it is a residential house where the appellant is residing. Counsel for the appellant further states that most of the amount which is the subject of four cheques amounting of ₹56.10 lac. Appellant's counsel further states that with regard to other amount an affidavit would be filed. After considering overall facts and circumstance subject to the undertaking given by the appellant, no coercive step shall be taken by the respondent in view of the issue notice under Section 8(4) of the Act. Copy of the order be given 'dasti' to both the parties”

4. A perusal of the impugned order itself reveals that the Learned Appellate Tribunal noted that the property was purchased on February, 2017 and the sale deed was registered in July, 2017. To ensure the balance of convenience, the Learned Appellate Tribunal also recorded the undertaking of the respondent herein and the appellant before it that till the disposal of the appeal, the appellant shall not create any third-party interest in any manner directly or indirectly. While directing no coercive steps, the Learned Appellate Tribunal also noted that the property in question was a residential house where the appellant was residing. The Learned Appellate Tribunal to ascertain a prima facie case also noted that the subject matter of the four cheques amounted to ₹56,10,000/-.

5. In view of the prima facie findings arrived at in the impugned order and balance of convenience also having been considered by the Learned Appellate Tribunal this Court finds no ground to interfere in the impugned order.

6. Appeal and interim application are dismissed.

MUKTA GUPTA, J.

FEBRUARY 28, 2019

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