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

\+ **W.P.(C) 5604/2019 and CM APPL. 24599/2019**

SMT. REKHA KHAITAN ..... Petitioner

Through: Mr P.V. Kapoor, Senior Advocate with Mr A.T. Patra, Mr P.K. Dubey, Mr Madhav Khurana, Ms Roopa Dayal, Mr Sidhant Kapur, Ms Kaveri Gupta, Mr V.K. Nagrath and Mr Aditya Ghadge, Advocates.

versus

SHRI YOGESHWAR SHARMA ..... Respondent

Through: Mr D.P. Singh, SPP with Mr Amit Mahajan, CGSC with Mr Manu Mishra, Ms Mallika Hiremath, Advocates with Mr Jitender Singh, Asst. Director.

AND

\+ **W.P.(C) 5650/2019 and CM APPL. 24788/2019**

NIPSHELL BUILDERS PVT LTD ..... Petitioner

Through: Mr P.V. Kapoor, Senior Advocate with Mr A.T. Patra, Mr P.K. Dubey, Mr Madhav Khurana, Ms Roopa Dayal, Mr Sidhant Kapur, Ms Kaveri Gupta, Mr V.K. Nagrath and Mr Aditya Ghadge, Advocates.

versus

SHRI YOGESHWAR SHARMA ..... Respondent

Through: Mr D.P. Singh, SPP with Mr Amit Mahajan, CGSC with Mr Manu Mishra, Ms Mallika Hiremath, Advocates with Mr Jitender Singh, Asst. Director.

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

**ORDER**

**%** **30.05.2019**

1. The petitioners have filed the present petition impugning a common order dated 09.03.2019 passed under Section 5 of the Prevention of Money Laundering Act, 2002 (hereafter 'the Act'), *inter alia*, provisionally attaching certain properties of the petitioners. The petitioners also impugn a complaint (OC No. 1112 of 2019) made by the Deputy Director to the Adjudicating Authority.

2. It is seen that the impugned order is a common order passed in respect of four persons. The said order also does not indicate any reason or material that could have possibly persuaded the Deputy Director, Directorate of Enforcement, to believe that the properties of the petitioners are 'proceeds of crime' within the provisions of the Act.

3. Mr Mahajan, learned counsel appearing for the respondent readily accepts that the impugned order ought to have been better worded and the reasons for attaching the properties of the petitioners ought to have been disclosed in the order.

4. Since it is *ex facie* apparent that there is no material indicated either in the impugned provisional attachment order or in the impugned complaint which would justify the same in respect of the petitioners or their assets, the aforesaid order and the complaint are liable to be set aside *qua* the petitioners.

5. In this view, the impugned order and the impugned complaint in so far as they relate to the petitioners, are set aside. The properties of the petitioners, as mentioned in the impugned order and the impugned complaint, are also excluded from the said order/complaint.

6. However, it is clarified that this would not preclude the concerned officer from passing a fresh order, if there is a material in his possession to believe that the assets of the petitioners qualify as proceeds of crime within the meaning of Section 2(1)(u) of the Act.

7. The pending applications are also disposed of.

8. Order *dasti* under signatures of the Court Master.

**VIBHU BAKHRU, J**

**MAY 30, 2019**
**RK**