

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION NO.197 OF 2019
IN
AUMPL NO.1 OF 2019

Digambar Kamat and another. Applicants.

V/s.

Joint Director (PJZO),
Directorate of Enforcement & ors. Respondents.

Mr. Parag S. Rao, Advocate for the Applicants.

Mr. Nikhil Vaze with Mr. Luis Fernandes, Advocate for Respondent No.1.

WITH
CIVIL APPLICATION NO. 240 OF 2019
IN
AUMPL NO.2 OF 2019

Directorate of Enforcement Applicant.

Versus.

Digambar Kamat and ors. Respondents.

Mr. Nikhil Vaze with Mr. Luis Fernandes, Advocate for the Applicant.

Mr. Parag Rao, Advocate for Respondents No.1 and 2.

Mr. Siddhesh Shet, Advocate for Respondents No.3 & 4.

Coram : M.S. Sonak &

Smt. M.S. Jawalkar, JJ.

Date : 23rd January, 2020.

P.C. :-

Heard Mr. S. S. Rao, who appears for the Appellants in AUMPL No.1/2019 and Mr. N. Vaze for the Respondent in the same appeal.

Heard Mr. N. Vaze for the Appellant in AUMPL No 2/2019 and Mr. P. Rao for the Respondents No.1 and 2 in the said Appeal.

Heard Mr. S. Shet for Respondents No.3 and 4 in AUPML No 2/2019.

2. Both the aforesaid Appeals, which are in fact cross objections, have already been admitted. Both the Appellants have taken out applications for interim relief.

3. Mr. Rao submits that the directions in the impugned order for attachment of the immovable properties to continue and further, the direction that the Appellant, whom he represents, to furnish indemnity bonds and to give an undertaking are, *ex facie*, without jurisdiction. However, on instructions, he submits that the

Appellants whom he represents will, during the pendency of the present Appeal, neither encash the FDS referred to at Sr. Nos. 2 to 7 in paragraph 18 of the impugned Judgment and Order, nor the Appellants will transfer, alienate or create any third party rights in respect of the two immovable properties referred to at Sr. Nos. 1 and 2 of paragraph 18 of the impugned Judgment and Order, without seeking leave of this Court.

4. Mr. Vaze, learned Counsel for the Directorate of Enforcement also seeks interim relief in relation to the impugned Judgment and Order. He submits that the Tribunal was not justified in releasing the aforesaid immovable properties and requiring Mr. Rao's client to merely furnish the indemnity bonds or undertakings. He submits that attachment to the immovable properties ought to have continued.

5. Now that Mr. Rao, on instructions, has made a statement that the fixed deposits as aforesaid will not be encashed without the leave of this Court and further, even the immovable properties will not be transferred, alienated, or no third party rights will be created without the leave of this Court, according to us, the interests of both the parties are suitably protected. This statement is accepted and on the basis of this statement, the direction for attachment of the movable

properties is stayed, so also the direction of furnishing indemnity bonds and undertakings, is also stayed. It is made clear that the Appellants in AUPML No1/2019, consistent with the statement made on their behalf before this Court, will not encash the fixed deposits or will not transfer, alienate or create any third party rights in the aforesaid immovable properties, without seeking leave of this Court.

6. The Civil Applications are disposed of in the aforesaid terms.

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.