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

+ LPA 703/2015

BHAGIRATH

..... Appellant

Through Mr. Vibhuti Seth and Mr. Kapil Joshi,
Advocates

versus

THE COMPETENT AUTHORITY SMUGGLERS & FOREIGN
EXCHANGE MANIPULATORS & ORS

..... Respondent

Through Mr. Anil Dabas and Mr. Praveen
Kumar, Advocates for R-1 to 3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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28.02.2020

C.M. No.8100/2020 (by the appellant for early hearing) & LPA 703/2015

1. C.M. No. 8100/2020 has been moved by the appellant praying *inter alia* for early hearing of the appeal that was admitted vide order dated 16.11.2015. Learned counsel for the appellant states that the appeal may be taken up for final arguments instead of letting it come up in due course.

2. Learned counsel for the respondents states that learned counsel for the appellant has failed to inform this court of the fact that vide order dated 20.4.2018, the Supreme Court had dismissed SLP No.34261/2012, directed against the common judgment dated 27.9.2012, passed by a Division Bench of this court in LPA Nos. 656/2011 and 657/2011 that has been followed by the learned Single Judge while dismissing the writ petition filed by the appellant. He hands over a copy of the order dated 20.4.2018 passed by the Supreme Court which is taken on record.

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3. When confronted with the said order, learned counsel for the appellant concedes that though he is aware of the dismissal of the captioned SLP, no mention thereof has been made in the application. He goes on to state that besides the submission made by him and recorded in the order dated 16.11.2015, the appellant had also taken other pleas before the predecessor Bench, which have not been considered.

4. We are afraid, neither this court, nor learned counsel for the appellant can go behind the order passed on 16.11.2015, which reads as follows:

“The learned Single Judge has declined to entertain the writ petition in view of the judgment of the Division Bench in LPA No.656/2011 titled Amina Bi Kaskar Decd. Thr LRS vs. Union of India & Ors. However, the learned counsel for the appellant has brought to our notice that against the said decision of the Division Bench, SLP(C) 34261/2012 is pending before the Supreme Court. Therefore, we deem it appropriate to admit the appeal. Admit.”

5. It appears to us that the only reason for entertaining and admitting this appeal was to await the outcome of the SLP pending before the Supreme Court arising from a common judgment dated 27.9.2012 passed by the Division Bench in two connected appeals, lead matter being **LPA 656 of 2011 Amina BI Kaskar (Deceased Through LRs) vs. Union of India & Ors.** In the said appeals, the Division Bench was called upon to examine a common judgment dated 14.7.2011, passed by the learned Single Judge in two connected petitions filed by the appellants therein, where the issue that had arisen for consideration was as to whether the Appellate Tribunal for

Forfeited properties was right in dismissing the common appeal preferred by the appellants/petitioners under Section 12 (4) of the Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (in short 'SAFEMA') on the ground that the same had been filed beyond the prescribed period. While observing that the Appellate Tribunal was right in holding that it was not empowered to entertain the appeal beyond the period of limitation, the Division Bench concurred with the view of the learned Single Judge that the said appeals were barred by limitation but went on to give different reasons for arriving at the said conclusion.

6. Now that the Supreme Court has dismissed SLP (C) No. 34261/2017 preferred against the judgment dated 27.9.2012, passed by a Division Bench of this court and has upheld the same, we see no reason to permit the appellant to argue the appeal on merits.

7. For the very same reasons that have been mentioned in the judgment dated 27.9.2012, passed by the Division Bench in LPA Nos. 656/2011 and 657/2011, duly upheld by the Supreme Court vide order dated 20.4.2018, the present appeal is dismissed along with the application.

HIMA KOHLI, J

ASHA MENON, J

FEBRUARY 28, 2020

NA/ap