

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16498 of 2021

1. K. Senthil Kumar, Male, age about 52 years, son of Shri S. Krishnamurthy R/o 104, Jai Shree Complex, Kavi Raman Path, Boring Road, P.S. Budha Colony, Patna- 800001.
2. Smt. Sutha J. Female, age about 41 years, W/o K. Senthil Kumar R/o 104, Jai Shri Complex, Kavi Raman Path, Boring Road, P.S. Budha Colony, Patna (Bihar) 800001.
3. Shri S. Krishnamurthy (Now Dead), C/o K. Indira Memorial Educational Trust, 3/126, Kumbakonam Main Road, Thaluthalamedu Village, Distt. Ariyalur, Tamilnadu- 621802 through Shri K. Ayyappan, Male, age about 46 years, S/o Shri S. Krishnamurthy, R/o 265, IIIrd Cross, Velayutha Nagar, Jayankondam, Dist Ariyalur, P.S. Jayankondam, Tamil Nadu- 621802.
4. Shri K. Sivakumar, Male, age about 54 years, S/o Shri S. Krishnamurthy R/o K. Indira Memorial Educational Trust, 3/126, Kumbakonam Main Road, Thaluthalamedu Village, P.S. Minsurutti, Distt- Ariyalur, Tamilnadu- 621802.
5. Shri K. Mathuchelvan, Male, age about 47 years, S/o Shri S. Krishnamurthy R/o K. Indira Memorial Educational Trust, 3/126, Kumbakonam Main Road, Thaluthalamedu Village, P.S. Minsurutti, Distt Ariyalur, Tamilnadu- 621802.
6. Shri K. Ayyappan, Male age about 46 years, S/o Shri S. Krishnamurthy R/o 365, IIIrd Cross, Velayutha Nagar, Jayankondam, Dist- Ariyalur, P.S. Jayankondam, Tamil Nadu- 621802.
7. Smt. K. Thangamani, Female, age about 72 years, W/o Shri S. Krishnamurthy R/o K. Indira Memorial Educational Trust, 3/126, Kumbakonam Main Road, Thaluthalamedu Village, P.S. Minsurutti, Distt Ariyalur, Tamilnadu- 621802.
8. K. Indira Memorial Educational Trust, 3/126, Kumbakonam Main Road Thaluthalamedu Village, Distt Ariyalur, Tamilnadu- 621802 through its Managing Trustee Shri K. Ayyappan, Male, age about 46 years, S/o Shri S. Krishnamurthy, R/o 265, IIIrd Cross, Velayutha Nagar, Jayankondam, Dist Ariyalur, P.S. Jayankondam, Tamil Nadu- 621802.

... .. Petitioners

Versus

1. Union of India through the Director, Enforcement Directorate, Lok Nayak Bhawan, Khan Market, P.S.- Khan Market, New Delhi- 110003.
2. Enforcement Directorate, through the Director, Enforcement Directorate, Lok Nayak Bhawan, Khan Market, P.S.- Khan Market, New Delhi- 110003.
3. Deputy Director, Directorate of Enforcement, Government of India, 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan, P.S. Gandhi Maidan, Patna, Bihar- 800001.



... .. Respondents

Appearance :

For the Petitioner/s : Mr. Rashid Izhar, Advocate
Mr. Farhaz Khan, Advocate
For the Respondent/s : Mr. Dr. Krishna Nandan Singh, Addl. S.G.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 24-09-2021 The matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

2. This writ application has been filed seeking following reliefs:-

- “i. For issuance of an appropriate Writ or Writs, Direction(s) by an Order directing the Respondent Nos. 2 and 3 not to take any coercive action against the Petitioners in terms of the Confirmation Order dated 06.08.2021 passed by Adjudicating Authority (under Prevention of Money Laundering Act, 2002) in Original Complaint (OC) No.949/2018 in PAO No.07/2018 and Notice dated 23.08.2021 in ECIR/19/Pat/2012/2148 for taking possession under Sub-Section (4) of Section 8 of the Prevention of Money Laundering Act, 2002 (15 of 2003) as the Appellate Authority under the PML Act, 2002 constituted under Section 25 & 26 of the PML, Act 2002 is not functional.
- (ii) For issuance of Order of stay against the operation of the Order dated 06.08.2021 in Original Complaint (OC) No. 949/2018 in PAO No. 07/2018 and Notice dated 23.08.2021 in



ECIR/19/Pat/2012/2148 till the petitioners' Appeal and the Stay Application is considered by the Statutory Appellate Authority which is not functional due to inaction on the part of the government.

(iii) For issuance of such other order/ orders as your Lordships deem fit and proper in the facts and circumstances of the case.”

3. It is the specific case of the petitioners that they have preferred an appeal against the impugned order before the Appellate Authority under the Prevention of Money Laundering Act, 2002 (for short “P.M.L. Act, 2002) situated in New Delhi. He has further submitted that the Appellate Authority is not functioning because of its non-constitution. He has also submitted that absence of constitution of Appellate Authority has virtually taken away the petitioners' valuable right to appeal against the said impugned order and seek interim relief. He has urged that this is the reason why despite there being alternative statutory remedy, the petitioner has approached this Court by filing present writ application. He has contended that on the strength of the impugned order the petitioners have reasonable apprehension that they may be dispossessed from their immovable properties, which are subject matter of the impugned order. Attention has been drawn to an order of this Court dated



12.07.2021 passed in C.W.J.C. No. 11981 of 2021 whereby in similar circumstance, this Court stayed the order passed by the Adjudicating Authority only on the ground that Appellate Forum was not functional.

4. Mr. K. N. Singh, learned Additional Solicitor General of India has not been able to inform as to within what time the Appellate Authority shall be constituted, though, according to him, the process of constitution of the Appellate Authority is underway.

5. Considering the aforesaid admitted facts and circumstances of the case as also the submissions advanced on behalf of the parties, it is directed that the impugned order dated 06.08.2021 passed by the Adjudicating Authority in Original Complaint (OC) No. 949/2018 in PAO No. 07/2018 and Notice dated 23.08.2021 shall remain in abeyance till constitution of the Appellate Forum under Section 25 of the P.M.L. Act, 2002.

6. This writ application is disposed of with the aforesaid observations and directions.

(Chakradhari Sharan Singh, J)

P. Tiwari/-

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