IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2244 of 2021

Directorate of Enforcement,
Rep. By its Authorised Officer/
Assistant Director,
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road, Chennai-6. ... Petitioner

Vs.

1. State rep. By
the Inspector of Police,
CB-CID Metro Wing,
Egmore, Chennai.

2. M/s.Quest Net Enterprises India Private Ltd.,
No.7.Rain Tree Place,
9th Floor, McNichols Road,
Chetpet,Chennai.
Re. by Managing Director.

3. M/s.Quest Net Enterprises India Private Ltd.,
No.7.Rain Tree Place,
9th Floor, McNichols Road, Chetpet,
Chennai.
Rep. by Pushpam Appala Naidu.

4. M/s.Oakdale Properties Pvt. Ltd.,
II Floor, 100 Mc.Nichols road,
Chetpet, Chennai.

5. M/s.INCA Watches Jewelery Pvt. Ltd.,
II Floor, 100 Mc.Nicholos Road,
Chetpet, Chennai.

6. Pushpam Appala Naidu

7. Allan Ernest Tibby

8. M/s.Pallava Resorts Pvt Ltd.,
The Rain Tree Place Basement No.7,

Mc.Nicholos Road,
Chetpet, Chennai.

9. Padma

10. K.Firose Khan

11. Thameemusnnisa Begam

12. J.Sabarinath

13. Anuj D.Ragavan

14. MunnAWAR Ahammed

15. Felix David

16. Jasmine Felix

17. Joseph Augustine @ Augustine ... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the docket order passed in SR.No.01/2020 in M.A.No. Of 2020 dated 21.11.2020 before the Special Court, Allikulam, Chennai and to consider the application filed in SR.No.01/2020 in MA.No. Of 2020.

For Petitioner : Mrs.G.Hema
Special Public Prosecutor

For Respondents : Mr.M.Mohamed Riyaz R1
Additional Public Prosecutor

ORDER

This petition has been filed challenging the docket order passed by the Court below refusing to entertain the application filed by the Directorate of Enforcement Department under Section 8(4) of Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PML Act'), to permit the department to take possession of the properties that are involved in the offence of money laundering.

2. The learned Special Public Prosecutor appearing on behalf of the Directorate of Enforcement submitted that independent proceedings have been initiated against the accused persons for the offence of money laundering and the same is pending on the file of the Special Court, Chennai for prevention of money laundering cases in CC.No.07 of 2018. The learned Special Public Prosecutor further submitted that the FIR registered in Crime No.454 of 2008 which resulted in the proceedings in CC.No.3876 of 2009, was the trigger point for the Enforcement Directorate to get into action and independent

proceedings have been initiated against the accused persons for the offence of money laundering.

3. The learned Special Public Prosecutor further submitted that the accused persons had filed a quash petition before this Court in Crl.OP.Nos.30144 of 2019 and 24461 of 2016 and the proceedings in CC.No.3876 of 2009 was quashed on the ground that the claims made by the complainants have been settled. During the pendency of the proceedings before this Court, the Directorate of Enforcement had impleaded itself as the second respondent and brought to the notice of this Court the proceedings initiated against the accused persons under the PML Act. This Court disposed of the quash petitions by an order dated 02.01.2020 by quashing the proceedings in CC.No.3876 of 2009 on the ground that majority of the claimants have been settled by the company.

4. It was further submitted that the quashing of the proceedings in CC.No.3876 of 2009 will not have any bearing on the proceedings initiated by the Directorate of Enforcement which is pending in CC.No.07 of 2018 before the Special Court. In order to substantiate her submission, the learned Special Public Prosecutor brought to the notice of this Court, explanation (1) to Section 44(1)(a) of PML Act. In view of the same, an application was filed under Section 8(4) of PML Act read with Section 3 & 7 of the Rules and the department had sought permission for taking possession of the properties which have already been attached and confirmed by the adjudicating authority through proceedings dated 29.08.2017. The Court below had returned this application as not maintainable on the ground that the proceedings in CC.No.3876 of 2009 has already been quashed. The learned Special Public Prosecutor submitted that the Court below failed to take note of the fact that the proceedings initiated by the Directorate of Enforcement is independent and they are entitled to take possession of the property pursuant to the proceedings of the adjudicating authority confirming the attachment made by the department.

5. In the considered view of this Court, the Court below did not appreciate the fact that quashing of the criminal proceedings in CC.No.3876 of 2009 confined itself only to proceedings initiated by CBCID. The independent proceedings initiated by the Directorate of Enforcement will not in any way be affected by quashing the proceedings in CC.No.3876 of 2009. The offence of money laundering is an independent offence which has already resulted in a complaint being filed before the Special Court and the proceedings are pending in CC.No.07 of 2018. In view of the same, the application filed by the department should have been entertained by the Court below and appropriate orders should have passed. Instead the Court below has rejected the application at the threshold on the ground that it is not maintainable. The same requires the

interference of this Court.

6. The Court below is directed to entertain the application filed by the Directorate of Enforcement under Section 8(4) PML Act read with Section 3 & 7 of the Rules and deal with the same strictly in accordance with law after affording opportunity to the accused persons. Till the application is disposed of, the properties which are already under attachment by the Enforcement Directorate shall not be returned.

7. This Criminal Original Petition is disposed of with the above directions.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Directorate of Enforcement,
Rep. By its Authorised Officer/
Assistant Director,
Government of India,
Ministry of Finance,
Department of Revenue,
2^{nd} and 3^{rd} Floor,
Murugesa Naicker Complex,
No.84, Greams Road, Chennai-6.

2. The Inspector of Police,
CB-CID Metro Wing,
Egmore, Chennai.

3. The Public Prosecutor
High Court of Madras
Chennai - 600 104.

4.The Special Court,
Allikulam, Chennai.

+1cc to M/s.G.Hema Spl PP for Enforcement SR.7672

Crl.O.P.No.2244 of 2021

LN(CO)
CB(12/02/2021)