

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

Coram

THE HON'BLE MR. JUSTICE P.N.PRAKASH
AND
THE HON'BLE MR. JUSTICE V.SIVAGNANAM

W.P.No. 26021 of 2003

and WMP.No.29841 of 2019

The Competent Authority,
SAFEM(Forfeiture of Properties Act, 1976),
No.64/1, G.N.Chetty Road,
T.Nagar, Chennai - 600 017. ..Petitioner

Vs.

1.S.Thenmozhi

2.N.Kanagasabapathy

3.T.N.Gunasekaran

4.Paruttikrishnan

5.The Registrar

Appellate Tribunal for Forfeited Property,
Lok Nayak Bhavan, 4th Floor,
Khan Market,
New Delhi - 110 003. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records in Appeal No.FPA/82/MDS/2002 dated 24.02.2003 on the file of the fifth respondent and quash the same.

For Petitioner .. Mr.S.Diwakar, ASG

For Respondents .. Mr.S.Siva Kumar for R1 to R4
Mr.J.Madhanagopal Rao
Senior Panel Counsel for R5

ORDER

(Made by P.N.PRAKASH, J.)

This writ petition challenges the order in No.FPA/82/MDS/2002, dated 24.02.2003, passed by the Appellate Tribunal For Forfeited Property, New Delhi, passed under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, (for short, 'the SAFEMA').

2. Respondents 1 to 4 had purchased a property in Door No.104, Virugambakkam, Saidapet Taluk. While that being so, a notice under Section 6(1) of the SAFEMA was issued to one Patassai Bai, wife of (Late) Dhanrajji, whose brother T.Hazarimal was detained under the provisions of Conservation of Foreign Exchange and Prevention of smuggling Activities Act, 1974 (COFEPOSA Act), to show cause why certain properties including 'land account' of Rs.2411.21 should not be forfeited as illegally acquired.

3. After conducting the enquiry, the said 'land account' together with other properties were forfeited by the competent authority under Section 7(1) of the SAFEMA on 23.08.1979. Challenging the same, respondents 1 to 5 herein, filed the appeal before the Appellate Authority.

4. It appears that while issuing show cause notice under Section 6(1) of the SAFEMA, the land in Survey No. 148 to an extent of 4 grounds and 800 sq.ft., mentioned either in the show cause notice issued under Section 6(1) or in the forfeiture order under Section 7 of the SAFEMA. For the first time, the said land was mentioned in the order dated 23.08.1979 that was issued under Section 19(1) of the SAFEMA.

5. As rightly pointed out by the Tribunal, Section 19 of the SAFEMA would come into play only after the said property has been declared to be forfeited to the Central Government under the SAFEMA and not before that. Under such circumstances, the order of forfeiture passed under Section 19 of the SAFEMA, attaching the said property straight away without referring to it, either in the notice under Section 6(1) of the SAFEMA or in the forfeiture order under Section 7 of the SAFEMA, cannot be sustained.

6. This Court does not find any infirmity in the order passed by the Tribunal warranting interference.

7. The writ petition stands dismissed accordingly. No costs. Consequently, the connected W.M.P.No. 29841 of 2019 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssm

To

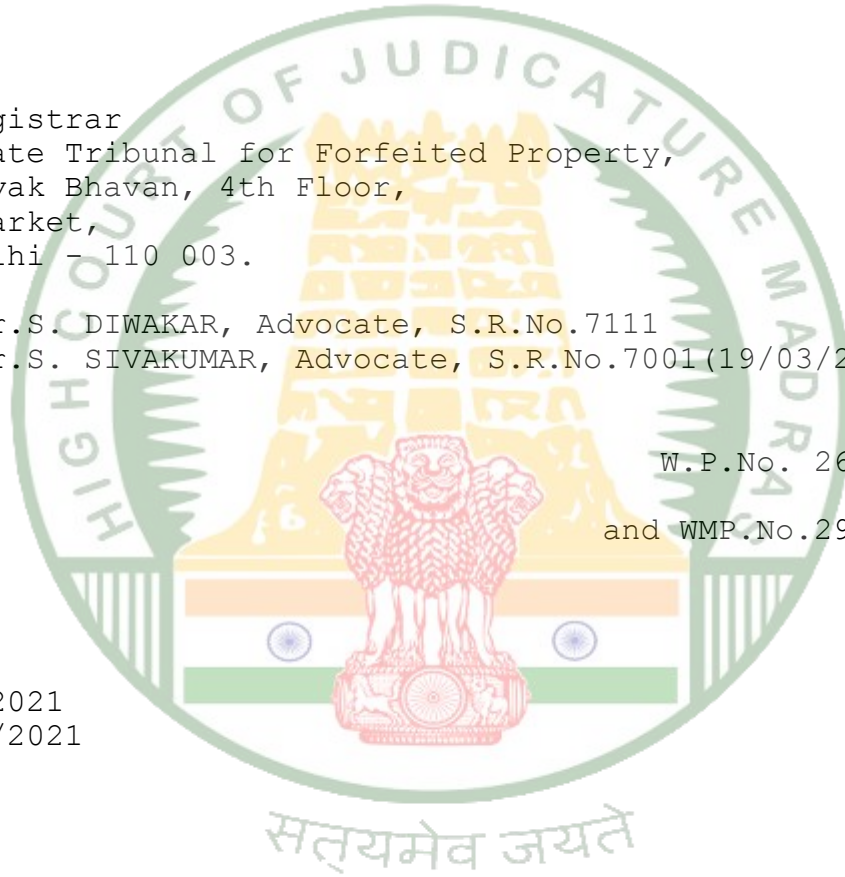
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Appellate Tribunal for Forfeited Property,
Lok Nayak Bhavan, 4th Floor,
Khan Market,
New Delhi - 110 003.

+1cc to Mr.S. DIWAKAR, Advocate, S.R.No.7111

+4cc to Mr.S. SIVAKUMAR, Advocate, S.R.No.7001(19/03/2021)

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