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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-16102-CWP-2021
CM-16104-CWP-2021 in/and
CWP-20588-2021
Date of Decision: 02.12.2021**

KARNAIL SINGH AND ANOTHER

.....Petitioners

Vs

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Dimple Vivek, Advocate for
Mr. Vishavdeep Singh Rana, Advocate
for the applicants-petitioners.

Ms. Sunint Kaur, Asstt. A.G., Punjab
for respondent No.1.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Sourabh Goel, Advocate
for respondent No.2-Union of India.

RAJ MOHAN SINGH, J.(Oral)

Petitioners have preferred this petition under Sections 226/227 of the Constitution of India for issuance of an appropriate writ in the nature of certiorari or any other appropriate writ for deciding the case under Section 68(F) of the NDPS Act and to direct the official respondent No.2 to give a chance of fair hearing to the petitioners.

FIR No.98/2010 under Sections 22/61/85 of the NDPS

Act, P.S. Zira, was registered against petitioner No.1. Petitioner No.1 was convicted and sentenced by the trial Court to undergo rigorous imprisonment for a period of ten years and to pay fine of Rs.1 lakh. Appeal filed by petitioner No.1 against the said conviction/sentence is pending before the High Court.

Petitioner No.1 is in jail in an another case bearing FIR No.59 dated 26.06.2021 registered under Sections 22/29 of the NDPS Act at P.S. Mallanwala, District Ferozepur. The family members of the petitioners received an information on 26.08.2021 in respect of order of attachment of the properties of petitioner No.1 by the competent authority.

Perusal of the record would show that vide order dated 09.09.2021, the competent authority has confirmed the freezing order No.560-5A dated 18.08.2021 passed by the Station House Officer, Police Station Mallanwala, District Ferozepur, Punjab as the petitioners have failed to provide explanation regarding acquisition of the properties with supporting evidence. The legality of the investment remained unexplained. As per investigation conducted by the Police, the Investigating Officer has recorded in the freezing order that the properties have been illegally acquired from the income derived from drug trafficking as the petitioner No.1 has no other source of income except illegal trade of drug trafficking. The properties in question have been acquired recently and do not commensurate with the

sources of income of petitioner No.1.

While passing the aforesaid order, the competent authority further directed that the properties mentioned in para no.2 of the order shall not be transferred or otherwise dealt with, in any manner by the petitioners without prior permission of the competent authority. While parting with the order, it has also been observed that the aggrieved party may file an appeal within 45 days before the Appellate Forum.

Admittedly, the petitioners have filed an appeal before the Appellate Forum under Section 68(O) of the NDPS Act, 1985. However, the Appellate Authority/Tribunal is not functioning presently for want of coram.

In compliance of order dated 25.11.2021, learned Addl. Solicitor General of India submits that the Appellate Authority/Tribunal is not in place for want of composition of Presiding Officer/Member(s). The process may take some time for its completion.

Admittedly, the statutory appeal filed by the petitioners is pending and no hearing is being done by the Appellate Forum in any manner.

In these circumstances, it would be just and appropriate to direct the parties to maintain *status quo* qua the properties in question till the Appellate Authority/Tribunal is made operational and appeal is taken up for consideration.

Petitioners also undertake that they will not alienate the property or create any encumbrance over the title of the same till the appeal is taken up for consideration by the Appellate Authority/Tribunal. Petitioners would be at liberty to press the application for stay before the Appellate Forum after the same is made functional and in such eventuality the Appellate Forum shall decide the same in accordance with law without being influenced by any statement of fact recorded hereinabove. Interim protection shall enure only till the time the Appellate Forum would start functioning.

With the aforesaid direction, this petition stands disposed of.

December 02, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No