

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.423 OF 2022

The Initiating Officer & Deputy

Commissioner of Income Tax

Benami Prohibition Unit-2, Mumbai.

.. Appellant

v/s.

M/s. Kavita Infrastructure Pvt. Ltd.

.. Respondent

...

Mr. Suresh Kumar for appellant.

Ms. Ragini Singh a/w Ms. Ashwani Taneja, Mr. Sankalp Malik i/b. RRA Legal & Ragini Singh & Associate for respondent.

...

CORAM : K. R. SHRIRAM &

KAMAL KHATA, JJ.

DATED : 30TH NOVEMBER, 2022.

P.C. :

1. The respondent herein had purchased a property sometime in March 2013. The property was provisionally attached on an order passed by the adjudicating authority under Section 24(4) of the Prohibition of Benami Property Transaction Act, 1988 ("PBPT Act"). That attachment was challenged by respondent before the Appellate Tribunal for PBPT Act.

2. By judgment dated 3rd September, 2019 the appeal of respondent was

allowed. The attachment order was set aside. Against that order, the department, i.e., appellant herein has approached this Court by way of this appeal. The appeal was lodged sometime on or about 13th November, 2019.

3. Thereafter, the Apex Court has considered the various provisions of PBPT Act in *Union of India v/s. Ganpati Dealcom Pvt. Ltd.*,¹ in which the Apex Court was pleased to hold that the concerned authorities cannot initiate or continue criminal prosecution or confiscation proceedings for transactions entered into prior to the coming into force of PBPT Act i.e. 25th October, 2016.

4. The Apex Court further held that as a consequence of the said finding, all such prosecutions or confiscation proceedings shall stand quashed. Both Mr. Suresh Kumar and Ms. Singh state that the judgment covers the facts in the case at hand and of course Mr. Suresh Kumar places a Caveat that he does not know whether any review petition has been filed in the Supreme Court.

5. Admittedly, in this case, the respondent's transaction happened on or about 18th March, 2013 which is certainly before 25th October, 2016. Therefore, as held by the Apex Court in Ganpati Dealcom (supra) the said confiscation proceedings cannot stand. Therefore, appeal dismissed.

(KAMAL KHATA, J.)

(K.R. SHRIRAM, J.)

1 2022 SCC Online SC 1064