



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Writ Petition No.20705 of 2000
and
W.M.P.No.30114 of 2000

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

.. Petitioner

Vs.

1.T.Ugambai (deceased)

2.The Registrar,
Appellate Tribunal for Forfeited Proeprty,
Lok Nayak Bhavan, 4th Floor,
Khan Market, New Delhi - 110 003.

3.T.Shenikraj
S/o.Ugambai

4.T.Premchand
S/o.Ugambai

5.Vimala Bai
D/o.Ugambai

6.Prema Bai
D/o.Ugambai

.. Respondents

[R3 to R6 substituted as LRs of
deceased first respondent vide
order dated 11.03.2022 made in
W.M.P.No.5793/2022 in W.P.No.
20705 of 2000]

Writ Petition filed under Article 226 of the Constitution
of India praying issuance of a Writ of Certiorari calling for
the records of the second respondent in FPA/102/MDS/95 dated
05.05.1999 and quash the same as illegal.



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For Petitioner : Mr.R.Sankaranarayanan
Additional Solicitor General
assisted by Mr.B.Rabu Manohar,
Senior Panel Counsel

For Respondents: Mr.G.Baskar [R1]
Mr.Madhanagopal Rao, SPC [R2]

O R D E R

[Order of the Court was made by P.N.PRAKASH, J]

This petition has been filed seeking to quash the order of the second respondent passed in FPA/102/MDS/95 dated 05.05.1999.

2. The minimum facts that are required for disposing this writ petition are as under:

One Tejraj was detained under the COFEPOSA on 19.12.1974 by the Central Government. He died on 15.01.1975. After his death, the competent authority under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 [in short "SAFEMA"], issued a notice dated 04.03.1978 u/s.6(1) of the SAFEMA to his widow Ugambai asking her to show cause as to why the properties referred to therein should not be forfeited to Government as her husband was detained under COFEPOSA. It appears that this dispute had gone through two rounds earlier. For the present, it would suffice to state that the competent authority under the SAFEMA passed forfeiture order on 29.09.1995 forfeiting the property of Ugambai on the ground that it was secured in her name by her husband Tejraj by committing offences under the Customs Act. Challenging the said order, Ugambai approached the Appellate Tribunal in FPA No.102/MDS/95, which was allowed on 05.05.1999. Challenging the said order, the competent authority has filed the present writ petition.

3. Heard Mr.R.Sankaranarayanan, learned Additional Solicitor General, Mr.G.Baskar, learned counsel for the first respondent and Mr.Madhanagopal Rao, learned Senior Panel Counsel, appearing for the second respondent.

4. Admittedly, the detention order on Tejraj was passed on 19.12.1974 and within a month i.e. on 15.01.1975, he died. Under such circumstances, the entire proceedings relating to SAFEMA for forfeiture of the property of Ugambai stands vitiated because Tejraj should be alive to prove that he had not acquired the property in his wife's name through illicit means. It is not the case of the competent authority that Ugambai was involved in smuggling activities and had acquired the property in question. Therefore, the view taken by us is fortified by the judgment of the Bombay High Court in Padma Nirmal Agarwal v. Union of India



and others [2005 SCC Online Bom 296], wherein it is held as follows:

"24. ... Obviously, pursuant to the death of the detenu, the order of detention had lapsed with effect from 1st May, 1976 and therefore on 19th October, 1976 the said order of detention was not in existence and therefore, competent authority could not have invoked the provisions of Section 6 of SAFEMA after 1st May, 1976."

In the result, this Writ Petition is devoid of merits and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gm

To

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

+1cc to Mr.B.Babu Manohar, Advocate, S.R.No.16645
+1cc to Mr.G.Baskar, Advocate, S.R.No.16857

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GPL(CO)
SB(05/04/2022)