



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.846 of 2022

P.Rosu Reddy

...Appellant / Petitioner

Vs

1.The Joint Director
Directorate of Enforcement
Chennai Zonal Office
2nd and 3rd Floor
Murugesu Naicker Complex
No.84, Greaves Road
Chennai - 600 006.

2.The Assistant Director
Directorate of Enforcement (FEMA)
Shastri Bhavan, Nungambakkam
Chennai - 600 034.

...Respondents / Respondents

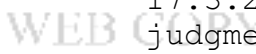
Prayer : Appeal under Clause 15 of the Letters Patent against the order dated 17.3.2022 passed in W.M.P.No.5534 of 2022 in W.P.No.25430 of 2021.

Prayer in W.M.P.No.5534 of 2022 : To modify the order passed in W.P.No.25430 of 2021 dated 09.12.2021.

Prayer in W.P.No.25430 of 2021 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the impugned proceedings of the 1st respondent in Order No.JD/CEZO/Z-1/03/2021 dated 29.10.2021 and quash the same.

For the Appellant : Mr.A.L.Somayaji
Senior Counsel
for Mr.S.Rajasekar

For the Respondents : Mr.N.Ramesh
Special Public Prosecutor
Enforcement Directorate



(Delivered by the Hon'ble Chief Justice)

2. It was the case where a writ petition was filed by the writ appellant/writ petitioner despite the availability of the remedy of appeal. Taking the aforesaid into consideration, the writ court passed an order on 9.12.2021 giving liberty to the writ appellant/writ petitioner to file an appeal before the concerned appellate tribunal and till the appeal is taken on file by the appellate tribunal, the respondents were directed not to precipitate or take coercive steps against the writ appellant/writ petitioner on condition that the writ appellant shall deposit a sum of Rs.2 crore within four weeks from the date of receipt of a copy of the order and also execute property security worth not less than Rs.5 crore within a period of eight weeks from the date of receipt of a copy of the order. The appellant instead of filing an appeal or complying the conditions imposed in the judgment within the time frame stipulated therein, filed an application seeking modification of the judgment dated 9.12.2021, which was dismissed.

3. Learned senior counsel for the writ appellant submitted that the application was filed before the learned Single Judge to seek modification of the order dated 9.12.2021 on the ground that the appellant has already deposited a sum of Rs.1 crore and the remaining amount would be deposited soon. As far as the execution of the property security is concerned, since the respondents have raised a dispute, the writ appellant could not execute the property security. Now the writ appellant is willing to execute the property security. However, the learned Single Judge, dismissed the application finding non-compliance of the conditions given by the Court.

4. We have considered the submissions and find that despite the availability of remedy of appeal, the learned Single Judge had passed an order to protect the rights of the writ appellant till the appeal is taken by the appellate tribunal for consideration and while passing the aforesaid order, a direction was also given to deposit a sum of Rs.2 crore within the period specified therein and to furnish the property security worth Rs.5 crore within eight weeks from the date of receipt of a copy of the order. It was with a direction to give protection on condition till the appeal is taken up. But the fact remains that till date the writ appellant has not preferred any appeal.



5. In view of the above, the intention of the writ appellant was to enjoy the order of the Court without complying the direction and even without filing the appeal and, therefore, the application to seek modification was made. In our opinion, the application has been rightly dismissed by the learned Single Judge, because the conditional order of the Court has not been complied with by the writ appellant.

6. In the background aforesaid, we do not find any ground to interfere with the order of the learned Single Judge and there is no error also in the impugned order of the learned Single Judge.

7. Accordingly, the writ appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.5688 of 2022 is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Joint Director
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hennai Zonal Office
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+1cc to M/s.R.Hemalatha, Advocate Sr.No.22542

W.A.No.846 of 2022

SSD(CO)
RVM(07/04/2022)