

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15295 of 2022

M/S Gayatri Homes India Limited, a company having its Registered office at Khanjarpur, P.S.- Barari, Bhagalpur (Bihar) through its Director, Kaushal Kishore Sinha son of Late Damodar Prasad Sinha Jhowa Kothi, Khanjarpur Barari District- Bhagalpur.

... .. Petitioner/s

Versus

1. The Union of India through the Assistant Director Enforcement Directorate Government of India, Patna Zonal Office Bank Road, Chandpura Place Patna 800001
2. The State of Bihar, through the Superintendent of Police Economic Offence Unit-2, Bihar Patna
3. Rajesh Kumar Choudhary S/o- Late Baidyanath Choudhary Resident of Brahmpur, P.O.- P.S.- Baunsi Dist- Banka, A/P Jai Prakash Pandey Lane, Burhanatn Road, P.S.- Adampur, (Kotwali) Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sajal Kumar Sinha, Advocate
For the E.D.	:	Mr. Tuhin Shankar, Advocate
For the E.O.U.	:	Mr. V.N.P. Sinha, Sr. Advocate
		Mr. Vijay Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

8 16-05-2023 Heard learned counsel for the parties.

2. The petitioner has put to challenge in the present writ application a notice for taking possession under sub-section (4) of Section 8 of the Prevention of Money Laundering Act, 2002 ("the Act" in short). The notice reads as under:-

"प्रवर्तन निदेशालय

भारत सरकार, पटना क्षेत्रीय कार्यालय

ENFORCEMENT DIRECTORATE

Govt. of Bihar, Patna Zonal Office, Bank Road,



Chandpura Place, Patna-800001

Notice for taking Possession under sub-section (4) of Section 8 of the Prevention of Money Laundering Act, 2002 (15 of 2003)

Whereas the immovable property bearing Khata no. 457/157 Plot no. 615 Area 3093.5 sq. ft. situated at Holding No. 56/93/109 in Ward-7/20, Bhagalpur Nagar Nigam, Mohalla- Jai Prakash Pandey Lane, P.S.- Adampur (Kotwali), Dist.- Bhagalpur [registered under sale deed no. 686 dated 18.01.2011 with District sub-Registrar Bhagalpur) has been provisionally attached under sub section (1) of Sec 5 of the Act (15 of 2013) vide Provisional attached order No. 07/2021 dated 21.10.2021 issued by the Deputy Director, Directorate of Enforcement, Patna Zonal Office, Patna

Whereas the said provisional attachment order was subsequently confirmed by the Adjudicating Authority constituted under section 6 of the Act, vide order dated 25.07.2022 in original complaint no. 1562/2021.

Whereas in compliance of the provisions contained under sub section (4) of section 8 of the Act (15 of 2003) the undersigned has taken possession of property, which shall be at the disposal of the Directorate of Enforcement until further order and such property shall be kept intact by all concerned for further proceeding under the Act, and

I, Rajeev Ranjan, Assistant Director, therefore, order that all concerned are hereby prohibited and restrained until further order of the undersigned from transferring or changing the aforesaid a property by sale gift mortgage, pledge or otherwise in any manner whatsoever and that all persons be and that they are hereby prohibited and restrained from receiving the same by purchase, gift, mortgage, pledge or otherwise in any manner whatsoever



Issued on this 24th day of August 2022.

Patna 800001”

3. It is evident on plain reading of the said notice issued under Section 18 (4) of the Act that the same has been issued in the light of an order dated 25.07.2022 passed in original complaint No. 1562 of 2021 by the adjudicating authority constituted under Section 6 of the Act. The said order dated 25.07.2022 has not been put to challenge by the petitioner.

4. Learned counsel for the petitioner has argued that the petitioner is not an accused in any criminal case and he has entered into a development agreement with Jaishree Thakur, Rajesh Kumar Choudhary and Jai Shankar Thakur. The land owners are facing proceeding under the Act because of the criminal cases pertaining to economic offences registered against them.

5. In the Court's opinion, the petitioner cannot maintain this writ application without questioning the correctness of the order passed by the adjudicating authority dated 25.07.2022.

6. In any view of the matter, there is a remedy of appeal against an order passed by the adjudicating authority under Section 26 of the Act.

7. Learned counsel for the petitioner has attempted to



convince this Court that existence of alternative remedy is not a complete bar for this Court to entertain a writ application. In principle, the submissions so advanced on behalf of the petitioner, cannot be disputed. However, the petitioner has not been able to make out an exceptional case for this Court to interfere in the present matter without assailing the order passed by the adjudicating authority dated 25.07.2022, before appropriate forum.

8. This application is accordingly dismissed. The petitioner shall, however, be at liberty to approach appropriate forum in accordance with law, if permissible, questioning of the correctness of the order dated 25.07.2022.

(Chakradhari Sharan Singh, J)

Rajesh/Sachin/-

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