

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2916 OF 2023
IN
CRIMINAL APPEAL NO.591 OF 2023

Vijaya Chandramohan Khot .. Applicant

Versus

Central Bureau of Investigation & .. Respondents
Anr.

...

Mr.P.G.Sabnis for the Applicant.

Mr.Shreeram Shirsat with Mr.Shekhar V. Mane and Ms.Adithi Rao for the Respondent No.1/C.B.I.

Mr.Y.M.Nakhwa, A.P.P. for the State.

...

CORAM: BHARATI DANGRE, J.

DATED : 25th SEPTEMBER, 2023

P.C:-

1. By the present application, the Applicant, who has filed an Appeal before this Court, being aggrieved by the judgment passed in Special Case No.52 of 2016, seek the following reliefs :-

“(a) This Hon’ble Court be pleased to direct the Respondent No.1 to return to the Applicant the original title documents in respect of flat situated at 801, Centre Point Society, 90 ft. Road, Gawanpada, Mulund (East), Mumbai;

(b) This Hon'ble Court be pleased to stay forfeiture to the State in respect of the properties listed at Exhibit "B" as ordered by the impugned Judgment and Order dated 9th May 2023."

2. Heard the learned counsel Mr.Sabnis for the Applicant and the learned counsel Mr.Shirsat for C.B.I./the contesting Respondent.

As far as prayer clause (a) is concerned, it revolve around Flat No.801, Centre Point Society, Gawanpada, Mulund (E), Mumbai and the genesis of prayer clause (a) is that the said property was acquired prior to the check period and was not the subject matter of the case and in fact there was no seizure/attachment of the said property, when the Applicant faced the charge of disproportionate assets.

The learned counsel for the Applicant would submit that the documents pertaining to the said property, which were found at the time of house search, were seized and while reflecting upon the said property, the impugned judgment specifically referred to the same having been acquired before the check period, as it was purchased on 12/05/2009 for consideration of Rs.73,50,000/-.

Considering the said aspect, in the impugned judgment, the learned Special Judge has recorded as under :-

"Admittedly, assets at Sr.No.1, 2 and 5 (Flat No.801, Centre Point, Mulund (East)) were acquired before the check period. Therefore, there is no need to discuss and prove the same."

3. Upon the judgment being delivered, the properties which were in the nature of disproportionate assets to the tune of Rs.1,17,39,852.10 was directed to be forfeited to the State

Government of Maharashtra under Section 452 of Cr.P.C. read with Section 16 of the Prevention of Corruption Act, 1988, upon the Applicant having been found guilty for committing the offence under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act and Section 109 of the Indian Penal Code.

Since the properties, which were acquired during the check period, have been found to have not accounted for, they were considered to be disproportionate assets and directed to be forfeited. However, the property mentioned in prayer clause (a) is not covered within the check period and, hence, I see no difficulty in granting prayer clause (a).

As far as prayer clause (b) is concerned, it seeks postponement of forfeiture of the properties to the State, during the pendency of the Appeal.

The prayer being innocuous, it is granted.

4. The Application is made absolute in terms of prayer clauses (a) and (b).

(SMT. BHARATI DANGRE, J.)