

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2733 OF 2023**

Nusrat Shanur Mujawar

... Petitioner

**V/s.**

The State of Maharashtra &amp; Ors.

... Respondents

Dr.Uday Warunjikar i/b. Mr. Aditya Kharkar for Petitioner.

Mr.S.S. Hulke, A.P.P. for Respondent-State.

Mr.D.P. Singh for Respondent No.2.

**CORAM : A. S. GADKARI AND  
SHIVKUMAR DIGE, JJ.****DATE : 9<sup>th</sup> August 2023.****P.C. :**

1. Petitioner has impugned eviction notice dated 26<sup>th</sup> July 2023 in Provisional Attachment Order (PAO) No. 01/2023 dated 10<sup>th</sup> February 2023 (in ECIR/MBZO-II/03/2020) directing her to vacate the premises within 10 days from the receipt of the said notice.

2. At the outset, learned Advocate appearing for Respondent No.2 raised a preliminary objection and submitted that, the said notice is issued in pursuance of Order dated 19<sup>th</sup> July 2023 passed under Section 5 read with 8 of The Prevention of Money Laundering Act, 2002 (*for short, "PMLA Act"*) and therefore the Petitioner is having an alternate remedy of Appeal under Section 26 of the PMLA Act. That without availing the said alternate remedy the Petitioner has directly approached this Court under Article 226 of the Constitution of India and therefore present Petition may not be entertained.

3. Dr.Warunjikar, learned counsel for the Petitioner submitted that, as a matter of fact and record, the Order dated 19<sup>th</sup> July 2023 passed under Section 5 read with 8 of PMLA Act was received by the Petitioner on 25<sup>th</sup> July 2023. That the limitation to file appeal under Section 26 of PMLA Act is of 45 days and for counting the period of limitation, the date of receipt of notice is to be considered. He submitted that, the Respondent No.2 without waiting for completion of period of appeal, immediately issued eviction notice on 26<sup>th</sup> July 2023, which is received by the Petitioner on 3<sup>rd</sup> August 2023. As the Respondent No.2 did not allow the period of limitation to complete, the Petitioner was constrained to prefer present Petition before this Court.

4. As the Petitioner is having statutory alternate remedy under Section 26 of PMLA Act, we relegate him to adopt the said remedy. As per the submission of Dr.Warunjikar the limitation would come to an end on 6<sup>th</sup> September 2023.

5. In view thereof by relegating the Petitioner to adopt the said alternate remedy, Petition is disposed off.

6. Respondent No.2 is directed not to take coercive steps in pursuance of eviction notice dated 26<sup>th</sup> July 2023 till 6<sup>th</sup> September 2023 i.e. the period of limitation for preferring an appeal against the Order dated 19<sup>th</sup> July 2023.

[ SHIVKUMAR DIGE, J. ]

[ A.S. GADKARI, J. ]

Digitally signed  
by OMKAR  
SHIVAHAR  
KUMBHAKARN  
Date:  
2023.08.11  
15:29:31 +0530

OMKAR  
SHIVAHAR  
KUMBHAKARN