IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION (L) NO.15083 OF 2023
IN
WRIT PETITION NO. 9312 OF 2023

Ramesh Chaurasia .. Applicant/Petitioner

Versus

Deputy Director of Income Tax
and others .. Respondents

Mr.Atul Rajadhykasha, *Senior Counsel a/w Mr. Akhilesh Dubey, Mr. Vagish Mishra, Mr. Amit Dubey, Mr. Uttam Dubey, Mr. Rajaram Kuleriya, Mr. Varad Dubey i/b Law Counsellor Advocates for the Applicant/Petitioner.*

Ms. Swapna Gokhale, *Advocate for Respondent Nos. 1 and 2.*

CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.
DATE : SEPTEMBER 06, 2023

P. C.

1. The above Writ Petition is filed by the Petitioner challenging the Look Out Circular issued at the instance of the 1st Respondent- Deputy Director of Income Tax.

2. The above Interim Application is filed by the Applicant/Petitioner seeking permission of this Court to travel abroad for the purpose of visiting his daughter-in -law who is 8½ months pregnant and would be delivering her baby shortly. The purpose of this trip is also because the daughter-in-law is suffering from something call "Placenta Previa" which appears to be a condition when the placenta blocks all or part of the cervix in the last months of the pregnancy. It is for this purpose that the Applicant/Petitioner seeks permission to travel to Dubai from 12/09/2023 to 06/12/2023.

3. Ms. Gokhale, the learned advocate appearing on behalf of the Income Tax Department, submitted that the assessment proceedings in relations to the Applicant/Petitioner are on going and he would be required to be present before the Income Tax Authorities for the purpose of the said assessment. Therefore, the Applicant/Petitioner ought not to be allowed to leave the country.

4. In answer to this argument, Mr. Rajadhykasha, the learned senior counsel appearing on behalf of the Applicant/Petitioner submitted that if, the Income Tax Authorities give notice of 96 hours to the Applicant/Petitioner he will return back to India for the purposes of attending the assessment proceedings and thereafter go back to Dubai. Mr. Rajadhykasha submitted that once this is the undertaking given to the Court, the apprehension expressed by the Income Tax Department is adequately redressed.

5. We have heard Mr. Rajadhykasha, the learned senior counsel appearing on behalf of the Applicant/Petitioner, as well as Ms. Gokhale appearing for the Income Tax Department. From the record we find that on a previous occasion also the Applicant/ Petitioner has been allowed to travel abroad. Further, as of now no criminal proceedings are either initiated or pending against the Applicant/Petitioner. Further when he was allowed to travel abroad, he has returned back to India without breaching any of the conditions imposed upon him.

6. Considering these circumstances, we permit the Applicant/Petitioner to travel to Dubai from 12/09/2023 to 06/12/2023 on the following terms and conditions: -

(a) The Applicant/Petitioner shall file an affidavit setting out the detailed itinerary with his contact details and addresses overseas.

(b) The Petitioner shall also file an undertaking to return to India on or before 06/12/2023. The said undertaking shall also state that the Applicant/Petitioner shall not apply for renewal or extension of this Order until he returns to this country.

(c) The Applicant/Petitioner shall also file an undertaking that in the event the Income Tax Department requires her presence during this period (12/09/2023 to 06/12/2023) he shall return back to India within 96 hours of receiving notice requiring his presence before the Income Tax Department. We make it clear that if for any reason the Applicant/Petitioner is unable to travel back to India pursuant to the notice issued by the Income Tax Department due to the ill health of his daughter in law, the same shall be communicated to the Income Tax Department with necessary proof in that regard.

(d) It is clarified that once he attends before the Income Tax Department, he would be permitted to go back to Dubai under this very order and would not require a fresh permission provided his travel is any time prior to 06/12/2023.

(e) Copies of all above undertakings shall be served upon the advocate for the Income Tax Department, before departure.

7. Subject to these conditions, the LOC issued at the instance of Income Tax Department against the Applicant/Petitioner shall stand suspended until 07/12/2023. It is clarified that this order does not suspend any other look out circulars or other restraint order, if issued by any other agency/ authority/ bank.

8. The immigration authorities at all ports of departure, including all airports, will permit the Petitioner and allow him to take his flights out of the country irrespective of whether the Income Tax

Department has notified them or not and irrespective of whether this suspension is noted in the immigration authorities' systems or otherwise.

9. The immigration authorities shall not insist upon a certified copy of this order but will act on presentation of an authenticated or digitally signed copy of this order.

10. The Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

11. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.] **[B. P. COLABAWALLA, J.]**