



WEB COPY



W.P.No.25781 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.25781 of 2018
and
W.M.P.No.29988 of 2018

Jisha Jinnah

...Petitioner

Vs.

The Competent Authority,
Smugglers and Foreign Exchange Manipulators,
(Forfeiture of Property) Act, 1976, NDPS Acts,
UTSAV, No.64/1, G.N.Chetty Road,
T.Nagar, Chennai - 600 017.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 10.03.2014 of the respondent issued in F.No.OCA/MDS/2975/2005 and quash the same.

For Petitioner : Mr.L.Gokul Raj
for Mr.Vijaya Narayan, Sr.C.

For Respondent : Mr.N.Ramesh



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ORDER

The petitioner has come up with this Writ petition seeking quashment of the order of the respondent dated 10.03.2014 bearing F.No.OCA/MDS/2975/2005.

2. The case of the petitioner is that, the petitioner received a Show cause notice dated 19.05.2005 issued under Section 6(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 on the ground that, the petitioner was holding illegally acquired property. Pursuant to the said notice, the petitioner participated in the proceedings and subsequently, the respondent passed an order dated 10.03.2014, holding that the property measuring an extent of 16 cents at P.V.No.728/97, T.P.No.647, S.No.63/63(Block), at Thaimadum, Changanacherry is to be forfeited to the Central Government in terms of Section 7(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976. Aggrieved by the said order, the petitioner preferred an appeal before the Appellate Tribunal along with an application for condonation of delay. The said application for condonation of delay was numbered as FPA-



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35 / MDS / 2015, however, the same was dismissed by the Tribunal, vide order dated 13.02.2018 on the ground that, as per Section 12 of SAFEMA, 1976, an appeal has to be filed within a maximum period of 60 days. Hence, the petitioner has come up with this Writ petition, challenging the order of the respondent dated 10.03.2014 bearing F.No.OCA/MDS/2975/2005.

3. Though very many grounds have been raised in the present Writ petition, the major contention of the learned counsel for the petitioner is that, no opportunity has been afforded to the petitioner before passing the present impugned order and the respondent has mechanically passed the same. Hence, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondent submitted that, after affording several opportunities to the petitioner and after careful consideration of the facts and circumstances of the case, the respondent has passed the present impugned order, for forfeiture of the subject property in terms of Section 7(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the same is perfectly in order. Hence, he prayed for dismissal of this Writ petition.



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5. Heard learned counsel on either side and perused the material available on record.

6. A perusal of the material documents placed on record, particularly the order impugned in this Writ petition reveals that, the respondent herein, after affording sufficient opportunity of hearing to the petitioner, forfeited the subject property in terms of Section 7(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, vide order dated 10.03.2014.

7. Further, it is evident from the records that, aggrieved by the above said order of the respondent herein/Original authority, the petitioner preferred an appeal before the Appellate Tribunal for Forfeited Property, along with an application for condonation of delay and the said application for condonation of delay was numbered as FPA-35/MDS/2015 and the same was subsequently dismissed by the Tribunal, vide order dated 13.02.2018. While such being the case, without challenging the order of the Appellate



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Authority, filing the present Writ petition, challenging the order of the Original Authority/the respondent herein is not sustainable. Hence, the prayer sought for the petitioner in this Writ petition cannot be acceded to.

8. For the reasons aforesaid, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

15.03.2023
(1/2)

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

The Competent Authority,
Smugglers and Foreign Exchange Manipulators,
(Forfeiture of Property) Act, 1976, NDPS Acts,
UTSAV, No.64/1, G.N.Chetty Road,
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W.M.P.No.29988 of 2018
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W.M.P.No.29987 of 2018

in

W.P.No.25781 of 2018

M.DHANDAPANI, J.

Dispense with ordered for the
present.

15.03.2023

(2/2)

skt