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C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**C.M.A(MD)Nos.529, 530, 531 & 532 of 2021
and
C.M.P(MD)Nos.4901, 4902, 4904 & 4908 of 2021**

C.M.A(MD)No.529 of 2021:-

S.Sankaranarayanan

... Appellant/Respondent/Appellant

vs.

The Deputy Director,
Directorate of Enforcement,
Government of India,
3rd Floor, 'C' Block,
Murugesu Naicker Complex,
No.84, Greaves Road, Thousand Lights,
Chennai – 600 006.

... Respondent/Petitioner/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 42 of the Prevention of Money Laundering Act, 2002, to set aside the common order dated 21.01.2020 in Review Application No.MP-PMLA-3996/CHN/2017 (Misc.) passed by the Appellate Tribunal against the order dated 19.06.2017 passed in MP-PMLA-3548/CHN/2017 in FPA-PMLA-1814/CHN/2017.



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C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

For Appellant	: Mr.G.Veera Pathiran for M/s.P.Wilson Associates
For Respondent	: Mr.AR.L.Sundaresan Additional Solicitor General of India Assisted by Mr.K.R.Laxman Senior Central Government Counsel

C.M.A(MD)No.530 of 2021:-

Madhavi Selva Nachiar	... Appellant/Respondent/Appellant
	vs.

The Deputy Director, Directorate of Enforcement, Government of India, 3 rd Floor, 'C' Block, Murugesu Naicker Complex, No.84, Greaves Road, Thousand Lights, Chennai – 600 006.	... Respondent/Petitioner/Respondent
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PRAYER : Civil Miscellaneous Appeal filed under Section 42 of the Prevention of Money Laundering Act, 2002, to set aside the common order dated 21.01.2020 in Review Application No.MP-PMLA-3996/CHN/2017 (Misc.) passed by the Appellate Tribunal against the order dated 19.06.2017 passed in MP-PMLA-3551/CHN/2017 in FPA-PMLA-1815/CHN/2017.



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For Appellant

: Mr.G.Veera Pathiran
for M/s.P.Wilson Associates

For Respondent

: Mr.AR.L.Sundaresan
Additional Solicitor General of India
Assisted by
Mr.K.R.Laxman
Senior Central Government Counsel

C.M.A(MD)No.531 of 2021:-

P.K.M.Selvam

... Appellant/Respondent/Appellant

vs.

The Deputy Director,
Directorate of Enforcement,
Government of India, 3rd Floor, 'C' Block,
Murugesu Naicker Complex,
No.84, Greaves Road, Thousand Lights,
Chennai – 600 006.

... Respondent/Petitioner/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 42 of the Prevention of Money Laundering Act, 2002, to set aside the common order dated 21.01.2020 in Review Application No.MP-PMLA-3996/CHN/2017 (Misc.) passed by the Appellate Tribunal against the order dated 19.06.2017 passed in MP-PMLA-3554/CHN/2017 in FPA-PMLA-1816/CHN/2017.

For Appellant

: Mr.G.Veera Pathiran
for M/s.P.Wilson Associates

For Respondent

: Mr.AR.L.Sundaresan
Additional Solicitor General of India
Assisted by
Mr.K.R.Laxman
Senior Central Government Counsel



C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

WEB COPY

C.M.A(MD)No.532 of 2021:-

Poonguzhali

... Appellant/Respondent/Appellant

vs.

The Deputy Director,
Directorate of Enforcement,
Government of India,
3rd Floor, 'C' Block,
Murugesha Naicker Complex,
No.84, Greams Road, Thousand Lights,
Chennai – 600 006.

... Respondent/Petitioner/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 42 of the Prevention of Money Laundering Act, 2002, to set aside the common order dated 21.01.2020 in Review Application No.MP-PMLA-3996/CHN/2017 (Misc.) passed by the Appellate Tribunal against the order dated 19.06.2017 passed in MP-PMLA-3557/CHN/2017 in FPA-PMLA-1817/CHN/2017.

For Appellant

: Mr.G.Veera Pathiran
for M/s.P.Wilson Associates

For Respondent

: Mr.AR.L.Sundaresan
Additional Solicitor General of India
Assisted by
Mr.K.R.Laxman
Senior Central Government Counsel



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C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

COMMON JUDGMENT

[Judgment of the Court was made by D. KRISHNAKUMAR, J.)

Since the issue involved in all these Civil Miscellaneous Appeals is one and the same, they have been clubbed, heard together and are being disposed of by this common judgment.

2.The learned counsel appearing for the appellants submitted that based on the case registered by the respondent in ECIR No.13 of 2015, the properties of the appellants were provisionally attached in terms of Section 5(1) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the PML Act, 2002'), vide Provisional Attachment Order No.23 of 2016, dated 22.12.2016. Subsequently, the respondent filed a complaint before the Adjudicating Authority in O.C.No.674 of 2017 under Section 5(5) of the PML Act, 2002 for confirmation of the attachment. The Adjudicating Authority confirmed the provisional attachment order by invoking Section 8(3) of the PML Act, 2002, vide order, dated 31.05.2017.



C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

WEB COPY

3. Aggrieved by the order of the Adjudicating Authority, dated 31.05.2017, the appellants preferred appeals before the Tribunal under Section 26 of the PML Act, 2002. While preferring those appeals, the appellants have also filed petitions to grant stay of the operation of the order dated 31.05.2017 passed in O.C.No.674 of 2017, till the disposal of the appeal.

4. The Tribunal, vide common order dated 19.06.2017 passed an interim order with regard to five properties belonging to the appellants and other co-appellants. As per the interim order, the appellants and their co-appellants have to deposit a sum of Rs.15,000/- each per month, as user charges for the residential flat.

5. While so, the respondent filed a review petition in common Misc.Pet.No.3996 of 2017 to review the order, dated 19.06.2017 in respect of the property in the residential flat and to direct the appellants and co-appellants to pay a sum of Rs.55,000/- as user charges, for the property each per month with effect from 19.06.2017 and also to deposit a sum of Rs.3,00,000/- which was collected by the appellants and co-appellants as one time security deposit from their tenants.

6/10



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C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

6.The Appellate Tribunal, by order dated 21.01.2020 allowed the review application and modified the interim order, dated 19.06.2017 and directed the appellants and co-appellants to deposit a sum of Rs.55,000/- per month with the respondent, with effect from the date of confirmation of the Provisional Attachment Order, after deducting the amount already paid in terms of the interim order, dated 19.06.2017. Challenging the same, the appellants have preferred the present Civil Miscellaneous Appeals.

7.The learned counsel appearing for the appellants submitted that the interim order, dated 19.06.2017 passed in stay applications by a three-member Bench. As against the said order, the review petition was filed. The said review petition heard and an order passed on 21.01.2020 by a single member, who was the Acting Chairman. It is pertinent to note that the Acting Chairman was not even a member of the three-member Bench, who passed the interim order. However, the Acting Chairman not only reviewed the decision rendered by the three-member Bench, but also modified the same by handling the case as a sole member. Hence, the impugned order, dated 21.01.2020 is liable to be quashed.



C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

WEB COPY

8.The learned Additional Solicitor General of India appearing for the respondent submitted that the order passed in the review application by the aforesaid single member is maintainable, which is only an interim order passed in the application and subsequently, it is a modification of the order passed by the Appellate Tribunal. Therefore, in the light of the provisions of the Act, the single member can entertain the said application and pass an order of modification. The learned Additional Solicitor General of India further submitted that the provisions in the review application have been wrongly stated and the appellants cannot raise the said ground, stating that the said review application cannot be entertained by a single member of the Tribunal.

9.After elaborately arguing the Civil Miscellaneous Appeals, the learned counsel appearing on either side, seeks liberty to raise all the grounds raised herein before the Appellate Tribunal and the parties are agreed to co-operate for the early disposal of the appeals, now pending before the Appellate Tribunal.



WEB COPY

C.M.A(MD)Nos.529, 530, 531 & 532 of 2021

10.Recording the abovesaid submissions, liberty is granted to the parties to raise all the questions raised in the present Civil Miscellaneous Appeals before the Appellate Tribunal and the Appellate Tribunal shall consider the Appeals and dispose of the same as early as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

11.In view of the above, these Civil Miscellaneous Appeals are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] & [L.V.G.,J.]
09.02.2023

Index : Yes / No
Internet : Yes
ps

To

The Deputy Director,
Directorate of Enforcement,
Government of India, 3rd Floor, 'C' Block,
Murugesu Naicker Complex,
No.84, Greaves Road, Thousand Lights,
Chennai – 600 006.

9/10



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D. KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

**ORDER MADE IN
C.M.A(MD)Nos.529, 530, 531 & 532 of 2021**

09.02.2023

10/10