

\$~62

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 22nd May, 2023

+ **W.P.(C) 6916/2023 & CM APPLs. 26931-32/2023**

RBL BANK LTD

..... Petitioner

Through: Mr. Rajeev Mehra Sr. Advocate with
Mr. Ateev Mathur & Mr. Amol
Sharma, Advocates. (M:
9811800816)

versus

DEPUTY DIRECTOR DIRECTORATE OF ENFORCEMENT AND
ANR Respondents

Through: Mr. Zoheb Hossain, Mr. Vivek
Gurnani, Mr. Kavish Garach and
Mr. Kalp Saraiya, Advocates for
ED. (M:9769842146)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 26931/2023 (for exemption)

2. Allowed, subject to all just exceptions. Application, is disposed of.

W.P.(C) 6916/2023 & CM APPL. 26932/2023(for delay)

3. The present petition challenges the impugned attachment order passed by the adjudicating authority under the provisions of the PMLA. Initially, in the Original Complaint No. 1526/2021 a provisional attachment order, PAO No. 05/2021 was passed on 25th August, 2021 which has now been confirmed by the adjudicating authority on 26th May, 2022.

4. The case of the Petitioner- RBL Bank is that a property referred to as No. 2696, Ward No. 16, part of Khasra No. 193/194, Block L, Gali No. 1. Naiwala Estate, Beadonpura, Karol Bagh, New Delhi-110005 (*hereinafter*

‘subject property’) was mortgaged with the bank which was purchased by Ms. Sunanda Kumar.

5. The grievance of the Petitioner is that in the proceedings before the adjudicating authority under the PMLA the Petitioner was never heard and no notice was issued to the Petitioner either at the stage of investigation or in the proceedings before the adjudicating authority. The only notice given to the Petitioner was seeking information relating to the subject property. Thus, it is the contention of the Petitioner that there is a complete breach of the principles of natural justice.

6. Mr. Mehra, Id. Sr. counsel relies upon various decisions to argue that when there has been a breach of the principles of natural justice, the aggrieved party ought not to be relegated to the Appellate Tribunal constituted under Section 25 of the PMLA.

7. *Per Contra*, Id. counsel for the Respondent submits that under Section 26 of the PMLA, the impugned order is an appealable order. In fact, the SBI had already filed an appeal before the Appellate Tribunal which is now listed on 9th October, 2023.

8. On a specific query from the Court as to when the Petitioner acquired knowledge of the impugned order dated 26th May, 2022, it is submitted by Mr. Mehra, Id. Sr. counsel that the Petitioner came to know of the said order in October, 2022.

9. After having perused the facts and the chronology of events in this case, the Court observes that the bank has been recalcitrant in its conduct inasmuch as despite having acquired knowledge in October, 2022 the present writ is listed only today i.e., in May, 2023. Clearly, the bank is not taking care of its own interest in respect of the property, with alacrity. There

are proceedings which have been commenced by the bank under the SARFAESI Act and it is submitted that the bank is in physical possession of the property.

10. The entertaining of the present writ petition is likely to result in multiplicity of proceedings and the possibility of conflicting orders/judgements as the SBI's appeal against the same order is stated to be pending before the Appellate Tribunal.

11. Under such circumstances, considering that the Petitioner is a bank and substantial public money is involved, in the unique facts and circumstances of this case, the Petitioner is permitted to approach the Appellate Tribunal by way of a substantive appeal challenging the impugned orders.

12. If the bank approaches the Appellate Tribunal within two weeks, the delay in the filing of the appeal shall stand condoned. If there is any further delay, the Appellate Tribunal shall deal with the same in accordance with law.

13. The present petition, along with all pending applications, is disposed of.

14. It is made clear that this Court has not considered the merits of the matter.

PRATHIBA M. SINGH
JUDGE

MAY 22, 2023

dj/rp