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W.P.Nos.30203, 30204 & 30206 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.Nos.30203, 30204 & 30206 of 2019
and
W.M.P.Nos.30176, 30174, 30175 & 30173 of 2019

L.Alamelu	... Petitioner in W.P.No.30203 of 2019
P.Ismail Banu	... Petitioner in W.P.No.30204 of 2019
A.Vasanthakumari	... Petitioner in W.P.No.30206 of 2019

Vs.

1. Union of India,
Ministry of Finance and Department of Revenue,
Represented by its Union Secretary,
Nehru Place, New Delhi - 110 019.
2. The Competent Authority,
Smugglers and Foreign Exchange Manipulators,
(Forfeiture of property) Act 1976,
Ustav No.64/1, G.N.Chetty, T.Nagar, Chennai - 17.



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3. The Joint Commissioner,
Office of Smugglers and Foreign Exchange Manipulators,
(Forfeiture of property) Act 1976,
Ustav No.64/1, G.N.Chetty, T.Nagar, Chennai - 17.

4. The Sub Registrar Alandur,
No.46, 1st Main Road,
Mcmillan Colony,
Naganallur, Chennai -114.

5. The District Collector,
Kancheepuram,
Kancheepuram District.

... 1 to 5 Respondents in all W.P's

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records in impugned notice bearing No.F.No.OCA/MDS/2670/87 dated 23.09.2019 issued by the third respondent, quash the same.

For Petitioners	: M/s.P.Sidharthan [in all W.P's]
For Respondents	: Mr.J.Madhana Gopal Rao Senior Panel Counsel [For R1 to R3 in all W.P's] : Mr.K.Tippu Sulthan Government Pleader [For R4 to R5 in all W.P's]



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COMMON ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

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The writ petitions have been instituted challenging the order dated 23.09.2019 issued by the Joint Commissioner under the provisions of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (hereinafter referred to as 'SAFEMA').

2. One Mr.A.Balasubramaniam son of Shri.Arumugam Konar was detained. Consequently, notice under Section 6 (1) dated 19.06.1987 under SAFEMA was issued to the said Mr.A.Balasubramaniam. By following the procedures as contemplated, an order of forfeiture under Section 7 (1) of SAFEMA was passed by the competent Authority on 15.02.1990. Consequently, the property belonging to Mr.A.Balasubramaniam had been forfeited by the Central Government under the provisions of SAFEMA. Thereafter, an order under 19 (1) was passed on 15.02.1990 directing Mr.A.Balasubramaniam to surrender the property to the District Collector.

3. However, the petitioners before this Court admittedly, purchased the property, subsequently after the issuance of 6(1) notice to the person



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detained. Though, the petitioners claim that they are the bonafide purchasers and not aware of the fact regarding the issuance of notice under SAFEMA, they have to redress their grievances by approaching the competent Forum in the manner known to law. It is not as if the petitioners are remediless. However, their remedy does not lie under the provisions of SAFEMA. The subject properties were purchased after the issuance of Section 6 (1) notice to the person detained, the subsequent transaction including sale became null and void, in view of Section 11 of SAFEMA.

4. Section 11 of SAFEMA stipulates that *"Where after the issue of a notice under Section 6 or under Section 10, any property referred to in the said notice is transferred by any mode whatsoever such transfer shall, for the purposes of the proceedings under this Act, be ignored and if such property is subsequently forfeited to the Central Government under Section 7, then, the transfer of such property shall be deemed to be null and void."*

5. Since the petitioners are subsequent purchasers, acquired right after issuance of notice under the provisions of SAFEMA, they are at liberty to workout their remedy against their vendors in the manner known to law.



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However, the impugned proceedings issued by the competent Authority is in consonance with the provisions of SAFEMA, since the purchase became null and void, in view of Section 11 of SAFEMA.

6. Though the order of forfeiture was issued in the year 2012, it is only a consequential proceedings and the issuance of notice under Section 6 (1) is to be taken into consideration for the purpose of invoking Section 11 of SAFEMA. The petitioners claim to be the bonafide purchasers. In the event of institution any suit against the vendors, the period during which the present writ petitions and the other litigations were pending in this matter shall be taken into consideration for the purpose of condoning the delay, if required under Section 14 of Limitation Act or under any other relevant law.

7. Consequently, the Writ Petitions are devoid of merits and stand **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[M.J.R., J.]

27.11.2024

Index: Yes/No

Speaking/Non-speaking order



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