



W.P(MD)No.21191 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.P(MD)No.21191 of 2021
and
W.M.P(MD)Nos.17773, 17775 & 17776 of 2021**

1.Shri K.Athinarayanan
2.Shri G.Dhanasekar
3.Smt.R.Dhanalakshmi

... Petitioners

-VS-

1.Shri.Harish Y.N,
Deputy Director,
Office of Deputy Director,
Enforcement Directorate,
Madurai Sub-Zonal Office,
No.6, Old No.42, Besant Road,
Chokkikulam,
Madurai-625 002.

2.Shri.M.Rajasekar,
Deputy Director,
Directorate Enforcement,
Prevention of Money Laundering Act (PMLA), 2002,



W.P(MD)No.21191 of 2021

WEB COPY

Government of India, 3rd Floor, C Block,
Murugesu Naicker Complex,
84, Greaves Road,
Chennai-600 006.

3.The Registrar,
Appellate Tribunal (ATFP),
Ministry of Finance,
Department of Revenue,
4th Floor, 'A' Wing,
Loknayak Bhawan, Khan Market,
New Delhi-110 003.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records pertaining to impugned notice of the first respondent dated 11.05.2021 and quash the same and direct the first respondent herein to not act upon take any coercive action in pursuant to the impugned notice dated 11.05.2021 of the first respondent which is in pursuant to Provisional Attachment Order dated 31.07.2020 in Provisional Attachment Order (PAO) No.01/2020 (MDSZO) passed by the second respondent which in pursuant to the order the Learned Adjudicating Authority vide Order dated 19.01.2021 in OC No.1336 of 2020 until the petitioner's appeal in Appeal No.3978 of 2021 is heard before the third respondent.

For Petitioners : No appearance

For R1 & R2 : Mr.R.Vijayarajan



W.P(MD)No.21191 of 2021

WEB COPY

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present Writ Petition is filed challenging the impugned order passed by the first respondent, dated 11.05.2021 and quash the same and consequently, direct the first respondent not to act upon and take any coercive action pursuant to the impugned notice dated 11.05.2021 of the first respondent which is in pursuant to Provisional Attachment Order (PAO) No.01/2020 (MDSZO) dated 31.07.2020 passed by the second respondent.

2. Facts behind filing of the writ petition are as under:-

i) A complaint dated 12.12.2016 was lodged by one R.Muthiah, Zonal Manager/Deputy General Manager, Indian Bank, Zonal Office, East Avani Moola Street, Madurai, against one Shri.K.Pandiyarajan, who served as the Branch Manager/Chief Manager of Kodaikanal Branch and also at Paramakudi Branch during the period 2012-2013 alleging serious irregularities in grant of loans and also against the beneficiaries of such loans. viz., the writ petitioners on the allegation of siphoning of funds. Based on such complaint, Central Bureau of



W.P(MD)No.21191 of 2021

WEB COPY

Investigation (Anti-Corruption Bureau), Chennai had registered an FIR in RC MA1 2016 A 0043 dated 19.12.2016 against the said Shri.K.Pandiyarajan and the writ petitioners for the offences punishable under Sections 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988.

ii) After completion of investigation, CBI (ACB), Chennai had filed three charge sheets, out of which, Charge Sheet in C.C.No.7 of 2018 was filed in II Additional District Judge for CBI cases, Madurai, wherein the said Shri.K.Pandiyarajan and the first writ petitioner have been charged for the offences punishable under Sections 420, 409 IPC and Sections 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 causing a wrongful loss to the Bank.

iii) Whiles, finding that certain offences alleged in the said charge sheets were covered under the list of Scheduled offences punishable under Section 2(1) (x) and (y) of the Prevention of Money Laundering Act, 2002 and prima facie, the persons accused in the said FIR appeared to have committed an offence of money laundering under section 3 of Prevention of Money Laundering Act, an Enforcement Case Information Report (ECIR) was recorded vide



W.P(MD)No.21191 of 2021

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iv) As an outcome of the above ECIR, the Provisional Attachment Order dated 31.07.2020 in (PAO) No.01/2020 (MDSZO) came to be passed by the second respondent and the same was confirmed by the Adjudicating Authority vide his order dated 19.1.2021. Subsequently, the impugned notice dated 11.5.2021 had been served on the writ petitioners, challenging the same, the present writ petition has been filed.

3. When the matter was taken up for hearing, there was no representation for the petitioners.

4. Learned counsel appearing for respondents 1 & 2 would submit that as against the order passed by the first respondent, the remedy of the petitioner is only an Appeal before the Appellate Tribunal, however, during the relevant point of time, since the post of Chairman/Presiding Officer in the Appellate Tribunal was vacant and the appeals were not taken up for hearing, the petitioners had approached this Court and this Court had granted an interim order directing the respondents not to take any coercive steps till the appeals are heard. He would



W.P(MD)No.21191 of 2021

WEB CPM

also submit that subsequently, Chairman for the Appellate Tribunal had been appointed and the Appeals filed by the petitioners are now taken up for hearing and hence, the petitioners have to approach only the Appellate Forum for redressing their grievance. He would further submit that the first petitioner has wrongly quoted his Appeal Number as 3978 of 2001 and the correct Appeal Number is 4194 of 2021 and the Appeals filed by the second and third petitioners have been numbered as 52 & 53 of 2024 along with condone delay petitions in M.P.No.122 & 126 of 2024 respectively. He would further submit that the first respondent has also filed a complaint before the CBI Court, Madurai and cognizance had been taken and the said case is pending in C.C.No.2 of 2022.

5. It is seen that as against the proceedings of the first respondent, the writ petitioners have appeal remedy and they had also filed necessary Appeals, however, since there was no Presiding Officer previously, this Court had granted an interim order against the impugned order passed by the first respondent. Now, it is brought to the notice of this court that the Presiding Officer is appointed and Appeals are being taken up for hearing and thereby no further orders are required in this writ petition.



W.P(MD)No.21191 of 2021

WEB COPY

6. Accordingly, the Writ Petition is disposed of granting liberty to the petitioners to pursue their remedy before the Appellate Forum. No costs. Consequently, the connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
am/ssk.

[A.D.J.C., J.] [K.R.S., J.]
11.07.2024



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W.P(MD)No.21191 of 2021

A.D.JAGADISH CHANDIRA, J.
AND
K.RAJASEKAR, J.

am/ssk.

W.P(MD)No.21191 of 2021

11.07.2024