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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12188/2022 & CM APPL. 11524/2024**

ROHIT MAHENDRU & ORS.

.....Petitioners

Through: Mr. Varun Garg, Mr. Shubham
Paliwal, Advocates

versus

**DIRECTORATE OF ENFORCEMENT THROUGH DEPUTY
DIRECTOR & ORS.**

.....Respondents

Through: Mr. Vedansh Anand, GP with Mr.
Saumyadip Chakraborty, Mr. Sachin
Saraswat, Advocates for R-2
Mr. Siddharth Aggarwal, Senior
Advocate with Mr. Sanyat Lodha, Mr.
Vishwajeet Singh, Ms. Shivani
Mehta, Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.09.2024

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1. The present petition assails order dated 7th June, 2019, passed by the Adjudicating Authority under the Prevention of Money Laundering Act, 2002,¹ confirming the Provisional Attachment Order dated 28th December, 2012 passed by Respondent No. 1/ Directorate of Enforcement. The afore-said orders resulted in attachment of plots/lands purchased by Petitioners from Respondents No. 3 and 4.
2. A brief background leading to the filing of the present petition, as presented by counsel for Petitioners, is as follows:



2.1. The Petitioners are buyers of residential plots jointly marketed and developed by Respondents No. 3 and 4, who are developers of the residential townships “Brahma City” and “Krrish World,” spanning 141.669 acres in sectors 60, 61, 62, 63, and 65, Gurugram, Haryana.² The said Respondents had acquired a portion of the project land from ABW Infrastructure Limited, which had originally entered into agreements with landowners to develop an integrated township. However, these rights were later assigned to Respondents No. 3 and 4 through an Assignment Agreement dated 2nd April, 2024, under which they were to develop the Project at their own expense.

2.2. After purchasing the plots and paying the necessary booking amounts, the Petitioners received Provisional Allotment Letters, and Plot Buyers Agreements were executed for some of the Petitioners. The said Agreements stipulated that the plot buyers would receive possession within 36 months of execution. However, this period has long since lapsed, and the development of the Project remains incomplete.

2.3. In 2015, an investigation was initiated into the affairs of ABW Infrastructure Limited on allegations of money laundering under Section 3 of the PMLA Act. On 28th December, 2012, Respondent No. 1 passed the Provisional Attachment Order under Section 5 of the PMLA Act ordering for attachment of the plots/land purchased by the Petitioners.

2.4. Thereafter, the Adjudicating Authority through order dated 7th June, 2019 confirmed the Provisional Attachment Order holding the officials of ABW Infrastructure Limited to be in possession of proceeds of crime.

¹ “PMLA Act”

² “the Project”



2.5. In June/ July, 2019, Respondent No. 4 issued letters to the Petitioners informing them regarding the investigation against ABW Infrastructure Limited and offered to refund the amounts paid by the Petitioners. The Petitioners have not been provided possession of their allotted plots till date. Hence, the Petitioners seek release of the attached land in so far as it pertains to the “D Block” of the Project.

3. In such background, counsel for the Petitioners argues that Petitioners are *bonafide* third parties, having acquired interests in the plot/land in the Project. Despite the knowledge of the creation of third party interest on the plots in question, Respondent No. 1, without any proper investigation or application of mind have taken the impugned action of attaching the property. The Petitioners have invested their hard-earned money into the purchase of the plots for their residential needs and, therefore, the impugned action is unsustainable in law. One of the Petitioners, i.e. Petitioner No. 23, Mr. Vinay Mangla, had approached this Court seeking a direction for release of Plot G-93 through W.P. (C) 6724/2019 which was decided by this Court on 01st August, 2019 by directing the Petitioner to approach the Appellate Authority under the PMLA Act. Be that as it may, Petitioners urge that the alternate remedy of filing an appeal under the PMLA Act is not an absolute bar of this Court to exercise its jurisdiction under Article 226 of the Constitution of India, 1950 and thus this Court should exercise the jurisdiction.

4. Mr. Siddharth Aggarwal, Senior Counsel for Respondent No. 3, states that Respondent No. 3 is not responsible for the Petitioners as the Petitioners are a part of Krrish’s Allocation within the said Project and the onus in respect of the plots within Krrish Allocation is on Respondent No. 4.



Nonetheless, he apprises this Court that several proceedings have been initiated by the Petitioners including under the Real Estate (Regulation and Development) Act, 2016, the Consumer Protection Act, 1986 and 2019 and the Haryana Development and Regulation of Urban Areas Act, 1975. He further states that writ petitions are otherwise pending before the High Court of Punjab and Haryana in W.P. (C) 2926/2022 wherein in an appeal [SLP(C) No. 6013 of 2022] against non-grant of interim orders by the High Court, the Supreme Court had granted *status quo* orders regarding the possession of the plots in question. Additionally, he points out that the impugned orders have been already assailed before the Appellate Authority under the PMLA Act. A confiscation order dated 31st May, 2022 of properties lying in Brahma City Private Limited has also been passed by the Special Court, Panchkula, Haryana.

5. In light of the aforementioned facts, the Court suggested the counsel for Petitioners that the Petitioners could avail the remedy of appeal before the Appellate Authority, which is better equipped to deal with the contentions of parties.

6. On this issue, counsel for the Petitioners, on last date of hearing sought time to take instructions. On receiving some instructions, counsel for the Petitioners states that the Petitioners are agreeable to invoke their remedies as provided under the PMLA Act either before the Appellate Tribunal or before the appropriate forum, in accordance with law. He further submits that in the event, such an action is taken, the Petitioners may not face hurdle of the proceedings being debarred by limitation.

7. Section 26 of the PMLA Act allows any person aggrieved by an order of the Adjudicating Authority to seek remedy through an appeal before the



Appellate Authority. The concept of “any person aggrieved by an order”, as outlined under Section 26(1) of the PMLA Act, has also been discussed by this Court in *Sanjay Jain (in JC) v. Directorate of Enforcement*.³

8. In light of the said decision considering the fact that counsel for Petitioners is agreeable to withdraw the present petition with liberty to approach the concerned tribunal, the Court is inclined to accede to their request.

9. In view of the above, the present writ petition is dismissed as withdrawn. The Petitioners shall be at liberty to assail the impugned order and all the contentions urged in the present petition before the Appellate Authority or the appropriate forum provided under the PMLA Act, if so advised.

10. In the event, such proceedings are initiated by the Petitioners, the Appellate Authority or any other appropriate forum shall not reject the petition on the ground of limitation.

11. All rights and contentions of the parties are left open and the Court has not commented on the merits of the case.

12. Dismissed as withdrawn with liberty as aforesaid.

SANJEEV NARULA, J

SEPTEMBER 27, 2024/ab

³ W.P(C) 17784/2022