

01-07-2025
Item No.4
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.28484 of 2023
Gopal Krishna Banka & Ors.

-vs-

Union of India & Ors.

Mr. Aniruddha Chatterjee
Mr. Surya Prasad Chattopadhyay
Ms. Anna Malhotra
Ms. Trishtrya Mancherjifor the petitioners

Ms. Sabita Roy ...for the Union of India

Mr. Arijit Chakraborty
Ms. Swati Kumari Singh ...for ED

1. The petitioner prays for release of the articles seized by the Enforcement Directorate on the grounds that the articles were duly accounted for and they are reflected in the stock-in-trade.
2. Proceeding under the Foreign Exchange Management Act, 1999 is pending consideration.
3. Learned advocate representing the respondents was directed to take instruction as to whether there is any scope for released of seized articles on furnishing bank guarantee of equal amount by the petitioner.
4. Perused the written submission forwarded by the Directorate of Enforcement dated June 30, 2025 clearly mentioning that on confiscation of the goods, the same stand vested in the Government of India, free from all encumbrances, in accordance with the applicable statutory provisions. Such vesting extinguishes all prior

rights, title and interest of any person in respect of the confiscated property. Under the Foreign Exchange Management Act, 1999 or the Rules framed thereunder, there is no provision for provisional release of the property once they are seized under Section 37 of the Act.

5. The very fact that the seized jewellery is reflected in the stock-in-trade is disputed by the authority.
6. In view of the above, there is hardly any scope to entertain the writ petition. The writ petition stands dismissed.
7. It is made clear that this Court has not entered into the merits of the case of the petitioner at all and that the writ petition has been dismissed on the grounds that there are disputed questions of fact which cannot be resolved in the instant writ petition and there is no provision in law under which the prayer of the petitioner for releasing the seized articles can be entertained.
8. However, dismissal of the writ petition will not stand in the way of the petitioners to approach the adjudicating authority with their prayer.
9. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
10. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

