IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12508 OF 2025

Shakuntala Digambar Khedekar ...Petitioner
Versus
Subhash Balkrishna Raut and anr. ...Respondents
WITH
INTERIM APPLICATION (ST) NO. 28326 OF 2025

Mr. Hemant Ghadigaonkar, for the Petitioner – Applicant.
Mr. Suyash Sule, for the Respondents.

CORAM: N. J. JAMADAR, J.
DATED: 30th SEPTEMBER, 2025

Order:-

1. Heard the learned Counsel for the petitioner.

2. The challenge in this petition is to an order dated 17th April 2025 in Notice of Motion No.2043 of 2025 in Suit No.427 of 2014, whereby the learned Civil Judge, dismissed the said Notice of Motion taken out by the petitioner – defendant to issue necessary directions to the Income Tax Authorities to examine and comply with the statutory mandate in respect of cash transaction as disclosed in the said suit in accordance with the directions of the Supreme Court in Civil Appeal No.5200 of 2025, dated 16th April, 2025.

3. The respondents – plaintiffs have instituted a suit seeking declaration that the Agreement for Sale dated 3rd April, 2010 in respect of the suit premises is subsisting, valid and binding upon the defendant – petitioner and allied reliefs. In the said suit, the plaintiff averred that under said Agreement for Sale, the plaintiffs have paid a sum of Rs.16,00,000/- in cash in addition to a sum of Rs.14,00,000/- by way of chques.

4. In the wake of the said assertion, the defendant took out the Notice of Motion seeking the aforesaid directions. In the case of ***The Correspondence, RBAMNS Educational Institution vs. B. Gunasekhar and Another***[1] the Supreme Court, *inter alia,* directed the Courts, in which a suit is filed with a claim that Rs.2,00,000/- and above is paid by cash towards any transaction, to intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of Income Tax Act, if any.

5. The learned Judge, City Civil Court, was of the view that the transactions in question, were of the year 2008 and 2010 and Section 269ST was brought into force in the Income Tax Act with effect from 1st April, 2017. And, thus, the said provision would not govern the facts of the case at hand.

1 Civil Appeal No.5200 of 2025, dated 16th April 2025.

6. Mr. Ghadigaonkar, the learned Counsel for the petitioner, submitted that the directions of the Supreme Court were required to be scrupulously complied with. The trial Court was only called upon to give intimation about the transaction in question to the concerned Income Tax Authority. Therefore the trial Court could not have dismissed the Notice of Motion, by delving into the question of the applicability of the provisions contained in 269ST of the Income Tax Act, 1961.

7. Indeed, the Supreme Court in the case of ***B. Gunashekar*** (supra) has adverted to the imperativeness of scrupulously complying with the statutory mandate. Having noticed that most of the times, the cash transactions go unnoticed nor brought to the knowledge of the Income Tax Authorities, the Supreme Court considered it appropriate to issue directions to the courts and authorities. It was *inter alia* directed as under:

> "(A) Wherever, a suit is filed with a claim that Rs.2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any."

8. In the said case, the Supreme Court noted that the transaction was entered into in the month of April 2018, after the Section 269ST was inserted in the Income Tax Act, 1961 and, thus lamented that though amendment came into force with effect from 1st April, 2017 the transaction in question indicated that the same had not brought the desired change.

9. Section 269ST proscribes the receipt of an amount of Rs.2,00,000/- or more in certain circumstances. It was inserted by Finance Act, 2017, with effect from 1st April 2017. Under Section 271DA if a person receives any cash amount in contravention of the provisions of Section 269ST, he shall be liable to pay, by way of penalty a sum equal to the amount of such receipts. The penalty was also introduced by the Finance Act 2017 with effect from 1st April, 2017.

10. Evidently, the transactions in question, are of the year 2008 and 2010. Thus, those transactions would not be governed by the provisions of section 269ST and 271DA of the Income Tax Act, 1961.

11. The directions of the Supreme Court (extracted above) mandate the intimation of the transactions which fall foul of Section 269ST, to the jurisdictional Income Tax Department <u>to verify the transaction and the violation of section 269ST</u> of the Income Tax Act, if any. Therefore, in the case at hand, the learned Judge, City Civil Court, was justified in holding that such intimation was not warranted as the transactions in question would not be governed by the mandate of section 269ST of the Income Tax Act, 1961. Resultantly, no interference is warranted with the impugned order in exercise of supervisory jurisdiction.

12. The writ petition stands dismissed.

13. In view of disposal of the petition, IA(St)/28326/2025 stands disposed.

[N. J. JAMADAR, J.]