

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 752 OF 2025
IN
CRIMINAL REVISION APPLICATION NO.379 OF 2016

Directorate of Enforcement through
its Dilip Kumar Assistant Director

.. Applicant

Versus

Rakesh Brijlal Jain and Ors.

.. Respondents

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- Mr. Shreeram Shirsat a/w Nikhil Daga and Ms. Karishma Rajesh, Advocates for Applicant.
- Mr. Kevic Setalvad, Senior Advocate a/w. Mr. Jehan Lalkaka i./by Mr. Bhavesh Thakur, Advocates for Respondent Nos. 1 and 2.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 27, 2025

P. C.:

1. Heard Mr. Shirsat, learned Advocate for Applicant and Mr. Setalvad, learned Advocate for Respondent Nos. 1 and 2.

2. By the present Application Applicant seeks extension of stay of the Judgment dated 21.01.2025 which was granted by this Court. After the said judgment was pronounced as per paragraph No.46 of the said judgment Mr. Shirsat appearing for Respondent No.3-ED would submit that some time was lost in obtaining the approval and sanctions as there was some degree of consultation as to whether Special Leave Petition challenging the said judgment be filed in the Supreme Court, but ultimately it was filed on 18.02.2025 and

ED procured Diary No.9134 of 2025. In that view of the matter the present Application was moved before this Court. *Prima facie* it is seen that present application was filed on 18.02.2025 but it was under objections. Incidentally, 18.02.2025 is the last date of the four week time period granted by the Court.

3. Application seeks extension of the stay of the judgment. *Prima facie* it is seen that Applicant has approached the Court much belatedly. If the date of verification of Application is seen it is 18.02.2025 and date of its lodging is 21.02.2025. Assuming that even if the Application was filed on that date i.e. 18.02.2025, it would be the last day of the stay which was granted by the Court. Incidentally, the Applicant has now already filed the SLP in the Supreme Court and once the Superior Court is seized with the challenge to the judgment and order then this Court becomes *functus officio*.

4. Mr. Shirsat would submit that the date of receiving the Application is 18.02.2025 in the office but there were objections which were not removed therefore there was no number was assigned to the matter. I have noted the same.

5. Mr. Setalvad, learned Advocate for Respondent Nos.1 and 2 has placed before the Court the decision of Supreme Court in the

case of *Hari Singh Mann v. Harbhajan Singh Bajwa*¹. Paragraph No.10 of the said decision reads thus:-

“Section 362 of the Code mandates that no Court, when it has signed its judgment or final order disposing of a case shall alter or review the same except to correct a clerical or arithmetical error. The Section is based on an acknowledged principle of law that once a matter is finally disposed of by a Court, the said Court in the absence of a specific statutory provision becomes functus officio and disentitled to entertain a fresh prayer for the same relief unless the former order of final disposal is set aside by a court of competent jurisdiction in a manner prescribed by law. The court becomes functus officio the moment the official order disposing of a case is signed. Such an order cannot be altered except to the extent of correcting a clerical or arithmetical error. The reliance of the respondent on Talab Haji Hussain’s case (supra) is misconceived. Even in that case it was pointed that inherent powers conferred on High Courts under Section 561A (Section 482 of the new Code) has to be exercised sparingly, carefully and with caution and only where such exercise is justified by the tests specifically laid down in the section itself. It is not disputed that the petition filed under Section 482 of the Code had been finally disposed of by the High Court on 7.1.1999. The new Section 362 of the Code which was drafted keeping in view the recommendations of the 41st Report of the Law Commission and the Joint Select Committees appointed for the purpose, has extended the bar of review not only to the judgment but also to the final orders other than the judgment.”

6. Considering the aforesaid observations, I am not inclined to consider the Application for extension of stay and it is left best to the Applicant to move the Superior Court considering that Applicant has already filed SLP bearing Diary No.9134 of 2025 to challenge the said judgment.

7. With the above directions, Applications is dismissed.

[MILIND N. JADHAV, J.]

¹ Criminal Appeal Nos. 908 and 909 of 2000 (arising out of S.L.P. (Cri) Nos. 519 and 520 of 2000