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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 521 OF 2024

Potash Fertilizers (India) Pvt. Ltd.

And Anr.

... Petitioners

Versus

Assistant Custodian of Enemy Property

And Anr.

... Respondents

Mr. Anish Shahapurkar a/w Ms. Prerna Gandhi, for
Petitioners.

Mr. Rajiv Chavan, Senior Advocate a/w Ms. Priyanka Chavan,
Ms. Sonam Pandey, Ms. Asmi Desai, for Respondents.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 07 November 2025

PC:-

1. Heard the learned counsel for the parties.
2. During the pendency of this Petition, the Assistant Custodian of Enemy Property, i.e. the first Respondent herein, has made orders under Section 5A of the Enemy Property Act, 1968 and issued a certificate under Section 12 of the same Act. These orders and certificates are dated 14 October 2025 and have been placed on record by the learned counsel for the Petitioner. The learned counsel for the Petitioner sought leave to amend the Petition to challenge this order and the certificate.

3. Mr. Chavan, the learned Senior Advocate, appearing on behalf of the Respondents, submitted that the Petitioner has an alternative and efficacious remedy by way of representing against these orders under Section 18 of the Enemy Property Act, 1968. Such representation must be addressed to the Competent Authority of the Central Government. Mr. Chavan pointed out that the order under Section 5A states that the Appeal before the Central Government is an efficacious remedy available under Section 18 of the Enemy Property Act, 1968. For this, a representation may be addressed to the Joint Secretary (FFR Division), Ministry of Home Affairs, Government of India, NDCC Building-II, Palika Kendra, Jai Singh Road, New Delhi – 110 001.

4. Further, Mr Chavan, on written instructions, submitted that no coercive action would be taken against the Petitioner till the Petitioner's appeal/representation under Section 18 of the Enemy Property Act, 1968, is filed and disposed of. He further submitted that the Petitioner, if desirous, may file an appeal/representation within a reasonable period.

5. Considering the above development, we do not think that we should keep this Petition pending or allow the Petitioner to amend the Petition and challenge the orders against which the Petitioner has an alternative efficacious remedy for seeking redressal.

6. Accordingly, we dispose of this Petition by leaving all contentions of all parties open and relegating the Petitioner to

avail of an alternative remedy under Section 18 of the Enemy Property Act, 1968.

7. Mr. Shahapurkar, the learned counsel for the Petitioner, on instructions, states that the Petitioner will appeal/represent the orders under the Enemy Property Act, 1968, now served upon the Petitioner, within four weeks from the date of uploading of this order. If such an appeal/representation is indeed filed within four weeks, the Competent Authority, as indicated above, must dispose of the same as expeditiously as possible on its own merits and in accordance with law. Needless to add that the principles of natural justice and fair play must be followed and the Petitioner must be granted an effective opportunity of being heard in the matter. A reasoned order must be passed and communicated to the Petitioner.

8. For a period of four weeks from the date of uploading of this order, and, if appeal/representation is indeed filed by the Petitioner during this period, then until the Competent Authority disposes of such appeal/ representation, the statement now made that no coercive action would be taken against the Petitioner is accepted and the Respondents will have to act consistent with the same.

9. Further, we add that in case the order made on the Petitioner's appeal/representation is adverse to the Petitioner's interest, then, for a period of six weeks from the date of its communication, such order should not be acted upon, or no coercive steps should be taken pursuant to such adverse order.

This will give the Petitioner sufficient time to explore the possibilities of challenging the said order.

10. Once again, we clarify that all contentions of all parties as raised in this Petition or as may be raised in the appeal/representation are expressly kept open for the decision by the Competent Authority in the first instance.

11. The Petition is disposed of in the above terms with the liberty as stated above. No costs.

12. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)