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

WRIT PETITION NO. 4827 OF 2024

Hansa Sharma	… Petitioner
Versus	
Joint Commissioner of Sales Tax (Nodal 13), Mumbai & Ors.	… Respondents

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Mr. Mangesh M. Deokar Bhosale for Petitioner.
Ms. Jyoti Chavan Addl. GP for the State.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.

DATED : 10 June 2025

PC. :-

1. Heard learned counsel for the parties.

2. This petition challenges the notice dated 14 January 2021, by which the respondents have attached a joint account in the name of the petitioner and her husband at ICICI Bank.

3. Learned counsel for the petitioner contends that no proper notice was issued to the petitioner and in any event, the petitioner is not liable to pay any amounts to the respondents. He submits that the attachment is on account of liabilities allegedly incurred by her husband to the extent of Rs.22,41,89,739/-. He submitted that the attached account has approximately Rs. 10 lakh, out of which a substantial portion belongs exclusively to the petitioner and not her husband. On these grounds, learned counsel for the petitioner submits that the impugned notice dated 14 January 2021 be set aside or, in the alternative, some directions be issued to release at least 50% of the amount to the petitioner by using the analogy of Section 226 of the Income Tax Act, 1961.

4. Ms. Chavan, learned counsel for the respondents, opposes the grant of any relief in this petition. She points out that this petition was instituted almost 3 years after the attachment notice of 14 January 2021. She submits that this petition is nothing but a proxy petition by the petitioner's husband, from whom tax is due and payable of an amount of over Rs.22 crores to the respondents. She points out that the petitioner has deliberately not impleaded her husband in this petition. She points out that the husband is the first account holder in the attached account. She points out that there is no material placed on record by the petitioner to show that the amount in the bank or any portion thereof was the petitioner's amount and not her husband's. For all these reasons, Ms. Chavan submits that this petition may be dismissed.

5. The rival contentions now fall for our determination.

6. At the outset, we must note that the averments in this petition are extremely sketchy, and the petitioner, apart from pleading that she is not guilty of any delay or laches, has offered no explanation whatsoever for the 3-year delay in instituting this petition.

7. That being said, the record shows that a notice was issued and responded to by the petitioner. Neither in this petition nor in the response are there any details about the individual income of the petitioner that was allegedly deposited in this bank account. In the exercise of our extraordinary jurisdiction, it would be impossible to undertake this exercise or adjudicate on such contentious issues of determining or separating the petitioner's separate income from the attached account.

8. Given the above position, the analogy of Section 226 of the Income Tax Act, 1961, cannot be followed in this case. From the nature of pleadings and the circumstance that the petitioner has not even bothered to implead her husband as respondent, the contention about this petition being a proxy petition by the husband cannot be ruled out. Suppose the petitioner is indeed serious about her assertion that any portion of the amount in the attached bank account belongs to her exclusively. In that case, she can always recover such an amount from her husband. There is no clarity in this petition about the steps taken, if any, by the petitioner's husband concerning the liability of over Rs.22 crores.

9. Upon considering the totality of the above circumstances, this is not an appropriate case to exercise our extraordinary or equitable jurisdiction and grant the petitioner any relief in this petition.

10. Therefore, by clarifying that it would be open to the petitioner to recover her alleged share from her husband, we dispose of this petition. No costs.

(Jitendra Jain, J) **(M.S. Sonak, J)**