



WP.No.9124 of 2001

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 10.01.2025

PRONOUNCED ON : 28.01.2025

CORAM :

THE HONOURABLE MR.**JUSTICE S.M.SUBRAMANIAM**

and

THE HONOURABLE MR.**JUSTICE M.JOTHIRAMAN**

W.P.No.9124 of 2001

V.Palaniappan

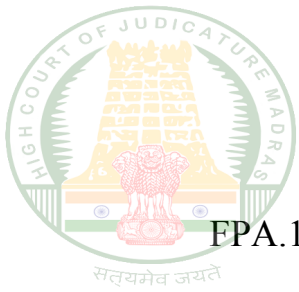
... Petitioner

Competent Authority
SAFEM (FOP) A & NDPS Acts
Govt of India,
Ministry of Finance,
Department of Revenue
64/2, "Utsav"
G.N.Chetty Street
Chennai.

2.The Registrar
Appellate Tribunal for Forfeited property
Khan Market,
Lok Nayak Bhavan, 4th Floor
New Delhi – 110 003.

... Respondents

PRAYER : Writ petition filed under Article 226 of Constitution of India to issue a Writ of Certiorari to call for the records of the 2nd respondent herein in its proceedings in MP.No.7 MDS/97 & MP.1/MDS/2001 in



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FPA.1/MDS/97 dated 08.02.2001 and quash the same.

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For Petitioner : Mr.B.Sathish Sundar

For Respondents : Mr.AR.L.Sundaresan
Addl. Solicitor General of India
Assisted by Mr.V.Chandrashekar, SPC
for R1 & R2.

ORDER

(The Order of the Court made by Justice **M. JOTHIRAMAN**)

Under assail is the order dated 08.02.2001 passed by the Appellate Tribunal proceedings in MP.No.7 MDS/97 & MP.1/MDS/2001 in FPA.1/MDS/97. The unsuccessful appellants before the Appellate Tribunal have preferred the present writ petition.

2. The brief case of the petitioner is as follows :-

(i) The petitioner is the son of D.Veerappan who is the also the husband of the V.Kaliammal. The said Veerappan was detained under the provisions of the Maintenance of Internal Security Act (hereinafter referred to as "MISA") and later by an order of detention dated 20.12.1974, under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 [hereinafter



referred to as “COFEPOSA”] during emergency time. It was the case of

the Department that the said Veerappan during October 1972 to February 1973 received a sum of Rs.7,65,000/- from persons abroad through Hawala channels and distributed a sum of Rs.7,67,000/- during the relevant period to several persons residing in India. In connection with the said transactions, the said Veerappan was proceeded against under Section 50 of the Foreign Exchange Regulation Act, 1973 [hereinafter referred to as “FERA”] for alleged contravention of Section 9(1)(b) and 9(1)(d). The Adjudicating Authority as well as the Appellate Authority confirmed the penalty of Rs.10,000/- each for the aforesaid charges made against the said person. Notice was affixed in the last known residence, by an order dated 16.12.1996, the Competent Authority proceeded to forfeit the property in terms of Section 7 of The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 [herein after referred to as “Act”]. The petitioner preferred an appeal before the Appellate Tribunal in FPA.No.1 & 2/MDS/97, along with petitions in MP.Nos.7 & 9/MDS/97, before the Appellate Tribunal.

(ii) The Appellate Tribunal remanded the matter to the Competent Authority with a direction to consider the documents and submissions



made by the petitioner. The petitioner appeared through his Counsel and

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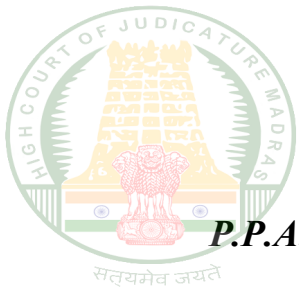
made submissions and based on the records available with them. It was their case that the properties, which are the subject matter of the proceedings, were purchased even as early as in the years 1964, 1965 and 1973. The first item of the property was purchased by the said Veerappan by a registered sale deed dated 01.06.1964, for a sale consideration of Rs.3,000/-. Out of the said sum, the said Veerappan promised to discharge a sum of Rs.1,500/- borrowed by the vendor under the sale deed from the brother of the said Veerappan and paid the balance sum of Rs.1,500/- to the vendors, that too out of the agricultural income derived from the ancestral agricultural lands. The third item of property was purchased in the year 1965 under the sale deed dated 09.06.1965, for the sale consideration of Rs.1,000/- only. The vendor of the property had earlier borrowed a sum of Rs.500/- on 27.04.1965, under a promissory note from the person affected / Veerappan. Interest on the said amount was worked out to Rs.12/-, an amount of Rs.512/- was adjusted against the sale consideration and paid the balance sum of Rs.498/- was paid to the vendor. In respect of the second item of the property, the person affected purchased the same by a Registered sale deed dated 02.05.1973 from one Kuppanna Gounder. The said Kuppanna Gounder had earlier



executed a promissory note in favour of one Chellammal and had borrowed a sum of Rs.2,000/- from the said Chellammal on 24.01.1972 and interest on the same was worked out to Rs.300/-. The person affected took over the said debt under the promissory note and paid the balance amount of Rs.700/- towards the sale consideration under the sale deed dated 02.05.1973.

(iii) The Appellate Tribunal confirmed the order of the Competent Authority and held that the petitioner had not discharged the burden cast on him under Section 8 of the Act and failed to establish that the properties were acquired from funds generated out of legal sources. Aggrieved over the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the entire proceedings emanating from Section 6(1) of the Act are bad in law, as the notice under Section 6(1) is stereotyped and does not disclose any material to initiate proceedings. The learned counsel for the petitioner, to strengthen his contentions relied upon the judgments of the Hon'ble Supreme Court reported in **(2003) 7 SCC 436 – Fathima Mohammed Amin v. Union of India and another** and in the case of



P.P.Abdullah and others v. Competent Authority reported in AIR 2007

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SC 946. He submitted that the notice under Section 6(1) should establish if there is any link and nexus between the holding of assets and that illegality committed disclose the materials and make such materials available along with the notice as mandated. It is not known whether service of the same was effected in 1986 on the person affected, the detenue Veerappan. Hence, non supply of reason recorded had caused serious prejudice to the petitioner. Thereafter, on recommencement of proceedings in 1996, a copy was served on the wife of the person affected without supplying of any other materials. The properties were acquired by purchase and under partition by the person affected as early as 1964, 1965 to 1973 and there is no no nexus between such acquisition and the alleged illegal earnings of the person affected, Veerappan. He would further submit that Section 6(1) notice is of the year 1986, and the proceedings were recommended by the authority in the year 1996, and the appeal rejected by the Appellate Tribunal / second respondent in the year 2001. The legal heirs of the person affected, wife and son had produced account books, sale deeds, partition deeds, affidavits of villagers and promissory notes showing borrowal by the person affected to justify the sources for holding the property. The authority concerned



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did not considered the above material documents, thus violative of principles of natural justice “*audi alteram partem*” the Tribunal under the impugned order stated that the documents do not inspire confidence, and the appellants in the Tribunal had only adopted delaying tactics and filed documents belatedly. In such view of the matter, the orders under challenge are unsustainable and the petitioners, who are legal heirs of the person affected, cannot be made to suffer on account of the protracted proceedings.

3(i) To strengthen his contentions, the learned counsel relied on the following decisions :-

(i) AIR 1969 SC 1297 – State of Gujarat V.

Patil Raghav Natha and others.

(ii) (1994) 1 SCC 44 – Ramchand V. Union of

India

(iii) (1997) 6 SCC 71 – Mohammed Kavi

Mohammed Amin v. Fatmabai Ibrahim.

(iv) AIR 1998 SC 688 – M/s.Hindustan Times

Ltd V. Union of India.

(v) 2003 (2) Gujarat Law Reports in

SCA.No.11079 and 11080 of 2000 dated 25.07.2002.



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(vi) Tribunal's order in the case of Meera

Rani Mazumdar reported in 1987 (166) ITR 230.

(vii) Tribunal's order in Mohammed Golam

Rasul Mia reported in 1990 (181) ITR 206.

(viii) Tribunal's order in Chandan Kumar

Saha - 1989 (179) ITR 183.

3(ii) The learned counsel would further submit that the Tribunal is the last fact finding body and therefore under obligation to weigh the material and give considered findings as settled in **(1959) 37 ITR 151 – Omar Salay Mohamed Sait V. CIT, Madras**. The value of the properties can be seen from the documents at the time of their acquisition which was only Rs.7000/- or at best Rs.70,000/-. The question of forfeiture or taking over the properties by the Competent Authority would not arise and would be opposed to the guidelines of the Ministry of Finance in F.No.12/23/93-CA dated 23.06.1994. In this guidelines, the Government has taken a conscious decision not to forfeit properties in two situations where proceedings are yet to be initiated and where proceedings have already been initiated. Even in cases of final orders have been passed by the Competent Authority, where the value of the



property does not exceed Rs.1 Lakh, the Government opined that further action for taking possession under Section 15 need not be pursued.

3(iii) He would draw the attention of this Court to the fact that the Hon'ble Division Bench of this Court in **WP.Nos.5051 and 5052 of 2018 vide order dated 25.09.2019**, referred a Division Bench judgment rendered in **Competent Authority V. M.Khader Moideen – (2017) (1) LW (crl.) 139** which requires reconsideration. Further vide order dated 25.09.2019, this Hon'ble Court observed that the distinction sought to be made between the person who is charged as the main offender and the properties owned by his friends and relatives are not available, under the Act. Similarly, the extent of the material required, while issuing the show-cause notice including the reasons for it, is also a matter for consideration. The above said reference is still pending. He would submit that another issue in the above said case is that while issuing show cause notice under Section 6(1) of SAFEMA, is there any link or nexus between the holding of the Assets and that of the illegality committed has to be considered.

4. Per contra, Mr.AR.L.Sundaresan, learned Additional Solicitor



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General of India would submit that the issue which has been referred to a larger bench in **Competent Authority V. M.Khader Moideen – (2017)**

(1) LW (crl) 139 deals with a situation which is different from that of the present case. In the case referred to above, the main question that arose for consideration was whether, while issuing show cause notice under Section 6(1) of the SAFEMA there must be any link or nexus between the holding of the Assets and that of the illegality committed. During the pendency of the reference, proceedings involved in the issues would not remain stayed till the decision of the larger bench. To strengthen his contention, he relied upon the judgments of the Hon'ble Supreme Court reported in

(a) (2009) 13 SCC 608 – Harbhajan Singh and another v. State of Punjab and another wherein it is held as follows :-

“14. In the aforementioned decision in Hardeep Singh [(2009) 16 SCC 785 : JT (2008) 12 SC 7] , the learned Judges had referred to a judgment of this Court in Rakesh v. State of Haryana [(2001) 6 SCC 248 : 2001 SCC (Cri) 1090] wherein it was held that even without cross-examination on the basis of a prima facie material which would enable the Sessions



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Court to decide whether the power under Section 319 of the Code should be exercised or not stating that at that stage evidence as used in Section 319 of the Code would not mean evidence which is tested by cross-examination.

15. Even if what is contended by the learned counsel is correct, it is not for us to go into the said question at this stage; herein cross-examination of the witnesses had taken place. The Court had taken into consideration the materials available to it for the purpose of arriving at a satisfaction that a case for exercise of jurisdiction under Section 319 of the Code was made out. Only because the correctness of a portion of the judgment in Mohd. Shafi [(2007) 14 SCC 544 : (2009) 1 SCC (Cri) 889 : (2007) 4 SCR 1023 : (2007) 5 Scale 611] has been doubted by another Bench, the same would not mean that we should wait for the decision of the larger Bench, particularly when the same instead of assisting the



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appellants runs counter to their contention.”

(b) (2012) 11 SCC 321 - Ashok Sadaraangani and another v.

Union of India and others wherein it has held as follows :-

“23. The learned Additional Solicitor General contended that having regard to the divergent views expressed by different Benches of this Court, when the same issue surfaced in *Gian Singh v. State of Punjab* [(2010) 15 SCC 118] , wherein the decisions in *B.S. Joshi case* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , *Nikhil Merchant case* [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] and *Manoj Sharma case* [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] came to be considered, the Bench comprised of two Judges, was of the view that the said decisions required reconsideration and directed that the matter be placed before a larger Bench to consider the correctness of the said three decisions. Shri Jain urged that as the same issue which was involved in the present case was also



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the subject-matter of the reference to a larger Bench, this Court should abstain from pronouncing judgment on the issue which was the subject-matter in the said reference. Shri Jain urged that in the circumstances mentioned hereinabove, no relief could be given to the petitioners on the writ petition and the same was liable to be dismissed.

26. Furthermore, the issue, which has been referred to a larger Bench in *Gian Singh case* [(2010) 15 SCC 118] in relation to the decisions of this Court in *B.S. Joshi case* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , *Nikhil Merchant case* [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] , as also *Manoj Sharma case* [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] , deals with a situation which is different from that of the present case. While in the cases referred to hereinabove, the main question was whether the offences which were not compoundable, under Section 320 CrPC could be quashed under Section 482 CrPC, in *Gian Singh case* [(2010) 15 SCC 118] the Court was



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of the view that a non-compoundable offence could not be compounded and that the courts should not try to take over the function of Parliament or the executive. In fact, in none of the cases referred to in *Gian Singh case* [(2010) 15 SCC 118] , did this Court permit compounding of non-compoundable offences. On the other hand, upon taking various factors into consideration, including the futility of continuing with the criminal proceedings, this Court ultimately quashed the same.

29. As was indicated in *Harbhajan Singh case* [*Harbhajan Singh v. State of Punjab*, (2009) 13 SCC 608 : (2010) 1 SCC (Cri) 1135] , the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference. The reference made in *Gian Singh case* [(2010) 15 SCC 118] need not, therefore, detain us. Till such time as the decisions cited at the Bar are not



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modified or altered in any way, they continue to hold the field.”

4(i) The learned Additional Solicitor General of India would submit that the writ petitioner and his mother ignored the opportunities to adduce any proof in support of their contention that the properties were not illegally acquired. When the initial notice under Section 6(1) was returned unserved on account of detinue not being available at the last known address and during November 1996, the last date for personal hearing, the Competent Authority made several attempts, even after the disposal of the writ petition, to serve notice and give opportunities in response to the notice for hearing. On 14.12.1990, a counsel representing the detinue's wife appeared but she did not bother to furnish any information. Though notice was duly served on the detinue's wife and the writ petitioner, they ignored the same. In response to the last notice for hearing prior to the order under Section 7 of SAFEMA, the learned Counsel appearing on behalf of the petitioner stated that the detinue' was presumably dead. Thereafter, the writ petitioner herein and his mother were impleaded as legal heirs. He would submit that the detinue's source of income were a pension of Rs.25/- p.m. to start with



and going upto Rs.100/- per month and agricultural land to an extent of

3.81 acres of dry land allotted to him as his share of ancestral property in

1964. In the absence of any explanation of the sources of acquisition of the properties, the Competent Authority ordered forfeiture of the properties mentioned in the notice.

4 (ii) The petitioner failed to discharge the burden of proof as required under Section 8 of the SAFEMA, either before the Competent Authority or before the Appellate Tribunal. The sources for the acquisition of the properties were stated to be “substantial terminal benefits” received by the detinue on his retirement, though the amount was not specified; income from agricultural land, which was not quantified; the sale of jewellery and other valuables; and borrowings which were also not quantified. The petitioner and his mother did not prove that they had adequate legal sources with which the properties were acquired, and therefore, the writ petition is liable to be dismissed.

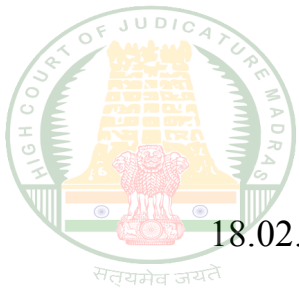
5. We have considered the rival submissions made on either side and perused the materials available on record.



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6. It is seen from the records before the Appellate Tribunal that two appeals were filed by the wife and son of D.Veerappan, who was detained under the provisions of COFEPOSA. The appeals were against the order of the Competent Authority dated 16.12.1996, made under Section 7(1) of Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, whereby the agricultural lands and house site were directed to be forfeited. The Competent Authority issued a notice under Section 6(1) of the Act to the detainee. The notice was returned unserved with an endorsement that the whereabouts of the detainee was not known. A notice was again sent and was received by the son of the detainee, who was represented by an advocate before the Competent Authority and stated that the whereabouts of the detainee was not known. In the meanwhile, the wife of the detainee filed WP.No.5340 of 1990 and the proceedings pending before the Competent Authority were stayed until 26.11.1993, when the writ petition was disposed of. The Competent Authority was directed to proceed with the enquiry.

7. It is not in dispute that the father of the writ petitioner Thiru.D.Veerappan was detained by an order of detention dated 20.12.1974, under the provisions of COFEPOSA. By a notice dated



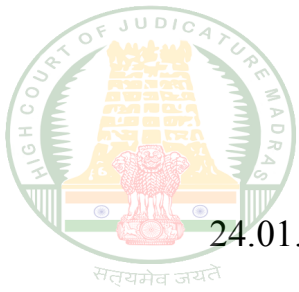
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18.02.1986, under Section 6(1) of SAFEMA, the said Veerappan was called upon by the Competent Authority to show cause as to why the three properties viz., agricultural lands measuring 1.60 acres and 1.31 acres situated in S.No.429/2, 429/17, 407/15 and 407/23 and a house site measuring to an extent of 13 cents in S.No.397/3 with a tiled house should not be confiscated under the Act, as these properties were acquired out of funds generated from illegal activities viz., transactions under Section 9(1)(b) and 9(1)(d) of the FERA. The said detainee Veerappan, disappeared in the year 1985, and his whereabouts were not known, therefore, the said notice under Section 6(1) of the Act could not be served on him. It is on record that notice was affixed in the last known address of the said Veerappan. By an order dated 16.12.1996, the Competent Authority proceeded to forfeit the properties in terms of Section 7 of the Act exparte. The writ petitioner and her mother preferred an appeal in FPA.No.1 & 2/MDS/97 along with petitions in MP.Nos.7 & 9/MDS/97 before the Appellate Tribunal. On 07.07.2000, the Appellate Tribunal remanded the matter to the Competent Authority with a direction to consider the documents and submissions made by the writ petitioner and his mother and submit its findings thereon.



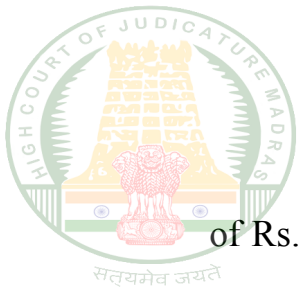
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8. It was their case that the properties, which are the subject matter of the proceedings, were purchased even as early as in the years 1964, 1965 and 1973. It was also their case, that the first item of property was purchased by the detinue vide registered sale deed dated 01.06.1964 for a sale consideration of Rs.3,000/- out of which the detinue promised to discharge a sum of Rs.1,500/- borrowed by the vendor under the sale deed from the brother of the said Veerappan, and paid the balance sum of Rs.1,500/- to the vendors, that too out of the agricultural income derived from the ancestral agricultural lands. The third item of the property was purchased in the year 1965 under the sale deed dated 09.06.1965, for the sale consideration of Rs.1,000/- only. The vendor of the property had earlier borrowed a sum of Rs.500/- on 27.04.1965, under a promissory note from the person affected / Veerappan, interest on the said amount was worked out to Rs.12/-, an amount of Rs.512/- was adjusted against the sale consideration and paid the balance sum of Rs.498/- to the vendor. In respect of the second item of the property, the person affected purchased the same by a Registered sale deed dated 02.05.1973, from one Kuppanna Gounder. The said Kuppanna Gounder had earlier executed a promissory note in favour of one Chellammal and had borrowed a sum of Rs.2,000/- from the said Chellammal on



24.01.1972, and interest on the same was worked out to Rs.300/-. The person affected took over the said debt under the promissory note and paid the balance amount of Rs.700/- towards the sale consideration under the sale deed dated 02.05.1973. It was also their case that the investments of the detinue in purchasing the properties which are the subject matter of the proceedings, were only at Rs.7,000/- and less than that.

9. The Competent Authority held that the person affected had served and retired from the Indian Army in the year 1963 and was getting a pension of Rs.25/- on retirement which in the course of to be increased to pension to Rs.100/- per month. The person affected family of five members (including himself) for maintenance. There is nothing on record to indicate that the person affected after retirement from the Army had engaged himself in any occupation for making an earning. It was also held that in the course of the case proceedings, neither the person affected nor his legal heirs have established that the person affected had sufficient income to make investments in the immovable properties. As against this financial background, the expenditure made by the person affected for acquiring the properties put to notice had been to the extent

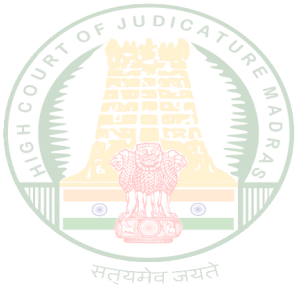


of Rs.17,000/- which is grossly disproportionate to the known sources of his income.”

10. The Competent Authority concluded that the writ petitioner and her mother have failed to prove the relevancy of the documents and the submissions made should establish the nature of the sources of acquisition.

11. On the submissions made regarding the sources for acquiring the properties ordered to be forfeited, the findings of the Appellate Authority in paragraph 16 (a) to (c) are follows :-

“(a) During personal hearing held on 7.07.2000 the learned counsel contended that the detenu had acquired the first property 1.60 acres of agricultural land from one Ramasamy, by the sale deed No.1292/1964 dated 01.06.1964 for Rs 3000/- ; Rs 1500/- was paid to Ramaswamy and the balance was paid to the detenu's brother towards the discharge of a promissory note. However on two counts the Competent Authority found the transaction suspect. The sale deed



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did not include plot in survey No.429/4, one of the 14 plots which totalled upto 1.60 acres, Secondly, as against the contention during personal hearing on 8.12.2000 that Rs 1500/- was paid to Ramasamy on 13.6.1964, as per the sale deed the amount was paid on 1.6.1964 itself in pursuance of the Registrar. Regarding the sources of Rs.3000/- no concrete evidence was furnished. The promissory notes filed in support of the contention that the appellant borrowed the sums from 1954 to 1981 do not prove the utilisation of the loans for the purchase of the land. The nearest loan prior to the date of purchase was on 10.10.63 and that too for Rs 200/- only for the purpose of family expenses, as per the narration given in the pronote. The claims of Smt. Kaliammal in her affidavit dated 24.7.2000 that the detenu had substantial income from agricultural land and had income from livestock also remained unquantified and unsubstantiated.



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(b) *The second property, 1.31 acres of agricultural land, was purchased on 2.5.73 from one Karuppana Goundar for Rs 3000-; Rs 700/- was to be paid to the owner and Rs 2300/- was to be paid to one Chellamnal from whom Nuruppana had borrowed on a promissory note. The total area of land indicted in the sale deed (1.43 acres) is more than the area forfeited. The sources of investment could not be proved. The amount of Rs.700/- was claimed to have been paid through borrowed sources. However, the promissory notes produced in support of the contention that the detenu had been borrowing for purchasing land could not prove anything. These promissory note indicated that the borrowing were for urgent family needs. The nearest date of promissory note prior to the date of purchase was 7.5.1969, that is four years earlier and the nearest note after the date of purchase is 11.10.73. Moreover, it was claimed before the Competent Authority that the amount of Rs.2300/- was still outstanding but, no documentary proof was produced*



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despite an undertaking of the counsel on 8.12.2000 to do so within ten days.

(c) The third property, 13 cents of land with a tiled house, was claimed to have been purchased on 9.6.1965 from one Palaniandi Gounder for Rs 1000/-. It was further claimed that the detenu had paid Rs 488/- in cash out of income of Rs.1200/- between January 1965 to June 1965 and the balance was adjusted against loan due from the seller. However, no documentary evidence, apart from mere claim, was furnished to substantiate that the detenu had legal earnings during the said period.”

12. Regarding the facts, the learned Additional Solicitor General of India referred to several paragraphs in the orders impugned passed by the Competent Authority and the Appellate Tribunal. The Competent Authority elaborately considered the facts with reference to the documents and evidences available on record.



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13. With regard to the guidelines issued by the Government of India dated 23rd June 1994, plain reading of the circular would amplify that it is only guidelines issued to the competent authorities to take decisions, whether further actions are to be initiated in respect of the cases, wherein the value of property falls below one lakh. Paragraph 4 of the guidelines clarifies that “These instructions are in the nature of guidelines only and are being issued with a view to enable the competent authorities and all the officers working with them to concentrate more on bringing to book economic offenders with substantial proportion instead of spending their time and energy in handling small cases”.

14. Such circulars are unenforceable in respect of all cases, as the guidelines are issued to the officials to take decisions. In the absence of statutory backing, mere guidelines issued by the department for the officials cannot be a ground to seek exoneration from the provisions of the Act. The Act will prevail over. When there is no specific or express exemption under any of the provisions of the Act, the guidelines will not confer any right or to be construed as enforceable for the purpose of



dropping further actions initiated under the SAFEMA.

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15. We are of the considered opinion that the procedures as contemplated under Sections 6(1) and 7(1) were complied with by the authorities. Under Section 8 of SAFEMA, the burden of proof lies on the affected person. In the present cases, neither the affected person nor his legal heirs, including his wife and the petitioner herein failed to discharge the burden which resulted in forfeiting the properties under the provisions of SAFEMA. At this juncture, it is relevant to read Section 15 of the Act :-

5. Competent authority and Appellate Tribunal to have powers of civil court.—*The competent authority and the Appellate Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—*

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) requiring the discovery and production of documents;*



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(c) receiving evidence or affidavits;

(d) requisitioning any public record or copy

thereof from any court or office;

(e) issuing commissions for examination of

witnesses or documents;

(f) any other matter which may be prescribed.”

16. It is pertinent to mention that the Competent Authority has reason to believe that all (or) any properties are illegally acquired as defined under Section 3(1)(c) of the Act, a notice under Section 6(1) or 6(2) issued as the case may be, or material available to it as a result of action taken under Section 18 (or) otherwise. We are of the opinion that an order passed under Section 7, sub section (1) of the Section 9 or Section 10 after following the above procedures contemplated under this Act is equal to passing a decree or judgment in a Civil Suit. Equally an appeal filed before the Appellate Tribunal under Section 12(4) of SAFEMA and an order passed by the Appellate Tribunal is equal to first appeal. Therefore, the Competent Authority and the Appellate Tribunal are fact finding authorities. In the present case on hand there is a concurrent findings on factual aspects.



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17. A complete analysis of the facts recorded by the Competent Authority and the Appellate Tribunal would be sufficient to form an irresistible conclusion that there is no further reason to interfere with the orders impugned.

18. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which a decision has been taken by the Competent Authority in consonance with the Statutes and Rules in force, without any perversity but not the decision itself. However, in the present cases, we have considered the factual findings of the Competent Authority and Appellate Authority, as well as the grounds raised between the parties.

19. In fine, we do not find any infirmity in respect of the actions taken, and consequently, the impugned orders are confirmed. The writ petition stands dismissed. There shall be no order as to costs.

(S.M.S., J.)
28.01.2025.

(M.J.R., J.)

tsh

Index : Yes / No



WP.No.9124 of 2001

Internet : Yes / No

Neutral Citation: Yes / No

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To

Competent Authority
SAFEM (FOP) A & NDPS Acts
Govt of India, Ministry of Finance,
Department of Revenue
64/2, “Utsav” G.N.Chetty Street, Chennai.

2.The Registrar
Appellate Tribunal for Forfeited property
Khan Market,
Lok Nayak Bhavan, 4th Floor
New Delhi – 110 003.



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WP.No.9124 of 2001

S.M.SUBRAMANIAM.J.
and

M.JOTHIRAMAN.J.
tsh

Pre-Delivery Order in

W.P.No.9124 of 2001

28.01.2025.