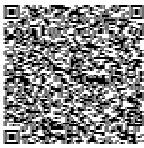


2025:PHHC:000814-DB



CRWP-12677-2024 (O&M)
Date of Decision: 08.01.2025

Major Mohin Nawaz ...Appellant

Vs.

Union of India and others ...Respondents

**CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present Mr. Arun Singla, Advocate for the petitioner.

Mr. Rohit Verma, Sr. Panel Counsel for the respondents.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. This writ petition assails the interim order dated 11.12.2024, whereby the Armed Forces Tribunal while issuing notice, denied grant of stay of further proceedings before the Summary General Court Martial.
2. Learned counsel for the petitioner submits that the SGCM proceedings would be concluded before the next date as fixed by the AFT and the very purpose and claim of the petitioner before the AFT would be rendered infructuous.
3. We have considered the submissions and do not find the submissions to be of any basis. Theory of *lis-pendens* has application to the cases which are pending before the AFT. If the petitioner has challenged the SGCM proceedings to be barred by limitation and the issue is pending before

the AFT, any proceedings which are to be conducted by the SGCM would be subject to the decision of the case before the AFT. The principle of *lis pendens* has been explained in detail by the Hon'ble Apex Court in the recent judgment of **M/s Siddamsetty Infra Projects Pvt. Ltd. v. Katta Sujatha Reddy & Others , 2024 INSC 861**, and has held as under:-

“49. The purpose of lis pendens is to ensure that the process of the court is not subverted and rendered infructuous. In the absence of the doctrine of lis pendens, a defendant could defeat the purpose of the suit by alienating the suit property. This purpose of the provision is clearly elucidated in the explanation clause to Section 52 which defines “pendency”. Amending Act 20 of 1929 substituted the word “pendency” in place of “active prosecution”. The Amending Act also included the Explanation defining the expression “pendency of suit or proceeding”. “Pendency” is defined to commence from the “date of institution” until the “disposal”. The argument of the respondents that the doctrine of lis pendens does not apply because the petition for review was lying in the registry in a defective state cannot be accepted. The review proceedings were “instituted” within the period of limitation of thirty days. The doctrine of lis pendens kicks in at the stage of “institution” and not at the stage when notice is issued by this Court. Thus, Section 52 of the Transfer of Property Act would apply to the

third-party purchaser once the sale was executed after the review petition was instituted before this Court. Any transfer that is made during the pendency is subject to the final result of the litigation.”

4. Accordingly, we do not find any reason to interfere with the order passed by the AFT dated 11.12.2024. The writ petition is misconceived and accordingly dismissed.

5. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

08.01.2025
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No