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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 02nd December, 2025*+ **W.P.(C) 10832/2025****AJAY NARAIN**

.....Petitioner

Through: Mr. Adit Pujari, Ms. Mansi Sood, Mr. Bhavesh Seth, Ms. Mayuri and Ms. Khushi Gupta, Advocates.

versus

RESERVE BANK OF INDIA & ORS.

.....Respondents

Through: Mr. Abhinav Sharma and Mr. Ayush Srivastava, Advocates for R1/RBI.

Mr. Bharat Arora and Ms. Himangi Arora, Advocates for R2.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****CM APPLs. 44786/2025, 44787/2025 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 10832/2025 & CM APPL. 44785/2025

3. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“(a) Issue an appropriate writ, order or direction, in the nature of mandamus, under Article 226 of the Constitution of India, 1950, or any other appropriate writ, order or direction inter alia quashing and setting aside the Letter bearing No. EC.CO.FID(III)/954/10.03.03./W-165/98-99 dated 14.12.1998 issued by the Respondent No. 1;

(b) Issue an appropriate writ, order, or direction, declaring that no reliance be placed on documents that create an interest of Respondent No.2 in the First Floor of the property at 110, Jor Bagh, New Delhi, which



have been executed without any permission having been sought from Respondent No.1 under the FERA regime;

(c) Issue an appropriate writ, order or direction under Article 226 of the Constitution of India, 1950, for any/all other consequential relief of prayers “(a)” and “(b)” above; and

(d) Pass any other or further order/s as this Hon’ble Court may deem fit and proper.”

4. Case of the Petitioner, as set out in the writ petition is that Respondent No.2/Shri Kanwar Raj Singh relinquished Indian citizenship and became a US citizen in 1993. Between 1996 to 1998, Petitioner took loans of approximately Rs.50 to 60 lakhs from Respondent No.2 and his wife and as security he offered 1st and 2nd floors of property bearing no. 110, Jor Bagh, New Delhi (‘Jor Bagh property’) with an understanding between the parties that the property will not be sold to recover the loan amount and was only to underwrite the loan taken by the Petitioner. On 30.03.1998, Petitioner signed a fresh set of documents including Agreement to Sell (‘ATS’) and Power of Attorneys (‘POAs’) in respect of 2nd floor of the Jor Bagh property. On 30.04.1998, Petitioner returned a sum of Rs.45 lakhs as part repayment of the loans taken and since an amount of Rs.15 lakh was outstanding, Respondent No.2 withheld the original ATS, GPAs and SPAs and promised to return the documents upon repayment of the pending loan amount.

5. It is stated in the petition that on 23.06.1998, Petitioner revoked the GPAs and SPAs and after cancelling the documents informed Land & Development Office that all documents pertaining to the loan agreement stood cancelled, in light of the revocation deeds. On 09.07.1998, Petitioner filed a suit for declaration and permanent injunction being CS(OS) No. 1336/1998 before this Court. On 13.07.1998, Court issued summons and granted injunction restraining Respondents No.2 and 3 from dealing with, alienating or parting with the 1st and 2nd floors of the Jor Bagh property. On



18.08.1998, Respondent No.2 sent a letter to Respondent No.1 claiming to have purchased 2nd floor of the subject property and submitted the ATS and GPA, both dated 30.03.1998 along with Form IPI-7 in compliance with reporting obligation under Foreign Exchange Regulation Act, 1973 ('FERA'), after a delay of 51 days.

6. It is stated that Respondent No.1/Reserve Bank of India ('RBI') decided on 14.12.1998 to accept the Form IPI-7, without condoning the delay in declaring the purchase of the property and without conducting a preliminary enquiry into the validity of the documents given in support of the claim that the property was purchased. In 2000, Respondent No.2 filed a cross suit being CS (OS) No. 2273/2000 *inter alia* seeking specific performance of ATS dated 30.03.1998. On 15.09.2011, Court framed an additional issue in CS (OS) No. 2273/2000 "*whether the transaction in favour of plaintiff No.2 is hit by Section 31 of the Foreign Exchange Regulation Act, 1973? OPP*". Both the suits were decided by common judgment dated 02.12.2024. CS (OS) No. 2273/2000 was decreed in favour of Respondent No.2 directing specific performance of ATS dated 30.03.1998 in respect of 2nd floor of Jor Bagh property with a further direction to execute the Sale Deed within 60 days while the suit filed by the Petitioner i.e., CS (OS) No. 1336/1998 was dismissed. Petitioner filed two appeals against the judgment and decree being RFA (OS) 13/2025 and RFA (OS) 14/2025, which were pending when this writ petition was filed in July, 2025.

7. In the present writ petition, Petitioner seeks quashing of letter dated 14.12.1998 issued by RBI as also a declaration that no reliance be placed on documents that create an interest of Respondent No.2 in the 1st floor of the Jor Bagh property, which were executed without any permission from RBI



under the FERA regime.

8. Learned counsel for the Petitioner submits that Respondent No.2 wilfully acted in breach of statutory mandate by failing to obtain prior permission from RBI within the prescribed 90 days period as required by Notification dated 26.05.1993. Furthermore, he suppressed material facts by omitting to disclose that there was a pending litigation with respect to interest in the 2nd floor of the Jor Bagh property and that he had acquired purported interest in the 1st floor under an ATS and GPAs. GPA dated 30.03.1998 executed in favour of Respondent No.3 purports to transfer interest in an immovable property from a foreign national of Indian origin i.e., Respondent No.2, without prior RBI approval, in direct contravention of Section 31(1) of FERA. Failure to obtain prior permission necessitates regulatory action by RBI and judicial declaration that consequences under Section 31 must follow.

9. It is contended that acceptance of Form IPI-7 by RBI is vitiated owing to failure to investigate the authenticity and enforceability of documents such as the ATS and GPA or the facts in the pending litigation. Under RBI Notification, any foreign citizen or Person of Indian Origin ('PIO') acquiring immovable property in India was required to mandatorily file Form IPI-7 with RBI within 90 days of acquisition, which is not an administrative formality but a statutory condition grounded in larger public policy of regulating and limiting foreign control over immovable assets in India. In *Asha John Divianathan v. Vikram Malhotra and Others, (2021) 19 SCC 629*, the Supreme Court has held that non-compliance with Section 31 renders the underlying transactions void and unenforceable. Moreover, no reason has been accorded by RBI for entertaining delayed filing of the Form IPI-7, more particularly, when there is no power to condone the delay



under the Notification. Taking the Court through the facts of the case, it is urged that the alleged ATS and other documents were executed on 30.03.1998 while permission was sought on 18.08.1998, which was beyond the deadline of 90 days, which expired on 01.07.1998 and despite the delay, Form IPI-7 was accepted by RBI, which is wholly illegal.

10. Learned counsel for RBI submits that by this writ petition, Petitioner challenges the legality and validity of letter dated 14.12.1998 issued by RBI, however, this issue stands decided by the Division Bench of this Court in the two appeals filed by the Petitioner, being RFA (OS) 13/2025 and RFA (OS) 14/2025, holding that the transaction entered into by Respondent No.2 was fully compliant with statutory provisions under FERA and procedural mandates stipulated by RBI Notification and thus the same issue cannot be reagitated in this writ petition. Even otherwise, on merits, Petitioner has no case as he is attempting to seek relief under a repealed statute. Foreign Exchange Management Act, 1999 ('FEMA') came into effect from 01.06.2000 and period of two years provided under Section 49(3) elapsed on 31.05.2002 and no cognizance can be taken of any purported offence under FERA after the said cut-off date.

11. Counsel for Respondent No.2 also opposes the petition on the ground that the issue of alleged violation of RBI Notification or the FERA regime in the present case stands settled by the judgment of the Division Bench holding that the transactions by Respondent No.2 are totally compliant and the present writ petition is thus only a futile attempt to reagitate decided issues, which is impermissible in law. In fact, after the decision in the two appeals, this writ petition is clearly barred by constructive *res judicata* and deserves to be dismissed on this ground alone. Without prejudice, Respondent No.2 has duly complied with the Notification and money was



paid through foreign exchange remitted from abroad through normal banking channel and Non-Resident External Account ('NRE Account').

12. After hearing the counsels for the respective parties and in light of the preliminary objection to the maintainability of this writ petition, the first and foremost question that needs consideration is whether this Court can adjudicate on the legality and validity of letter dated 14.12.1998 issued by RBI, whereby RBI accepted Form IPI-7 dated 18.08.1998. Challenge to the letter is predicated on violation of RBI Notification dated 26.05.1993 and Section 31(1) of FERA. As per the Petitioner, Respondent No.2 is a foreign citizen of Indian origin and claims to have acquired interest in 1st floor of the Jor Bagh property by way of irrevocable GPAs dated 06.12.1996 and 07.10.1997. However, no permission was sought by him from RBI in respect of the 1st floor prior to creating the interest, within the prescribed period of 90 days in Notification dated 26.05.1993. Heavy reliance is placed on Section 31 of FERA that no person who is not a citizen of India and no company, other than a banking company, which is not incorporated under any law in force in India, shall, except with previous general or special permission of RBI, acquire or hold or transfer or dispose by sale, mortgage, lease, gift, settlement or otherwise any immovable property situate in India. Challenge is laid to the action of RBI in accepting Form IPI-7 beyond the prescribed period, without condonation of delay and without any power to condone.

13. Therefore in essence, Petitioner calls upon this Court to decide whether Form IPI-7 submitted by Respondent No.2 was correctly accepted and/or the transactions by Respondent No.2 are compliant with the FERA regime and RBI Notification dated 26.05.1993. As noted above, Petitioner filed CS (OS) No. 1336/1998 on 09.07.1998 seeking declaration and



permanent injunction in which an injunction order was granted. Respondent No.2 filed a cross suit being CS (OS) No. 2273/2000. On 15.09.2011, the Court settled an additional issue with the consent of the parties as follows:-

“Whether the transaction in favour of Plaintiff No.2 is hit by Section 31 of the Foreign Exchange Regulation Act, 1973? OPP”

14. By common judgment dated 02.12.2024, CS (OS) No. 1336/1998 was dismissed, while CS (OS) No. 2273/2000 was decreed *inter alia* directing specific performance of ATS dated 31.03.1998. During the pendency of this writ petition, the appeals filed by the Petitioner have been dismissed vide judgment dated 28.10.2025. Significantly, in paragraph 12 of the judgment, Division Bench has taken note of the additional issue and the contentions of the respective parties with respect to Section 31 of FERA as also RBI Notification. In paragraph 14(vi), Division Bench has captured the contention of the Petitioner vis-à-vis the FERA regime and paragraph 15 (viii) encapsulates rival contention of Respondent No.2. After analysing the rival submissions as also Section 31(1) of FERA and concerned RBI Notification, the Division Bench held as follows:-

“26. Consequently, we now proceed to consider the issue framed pertaining to the transaction executed by Respondent No.2 in CS (OS) No. 2273/2000, as raised by the Respondents in the amended plaint.

27. This Court is placing reliance upon the RBI Notification, in relation to Section 31(1) of the FERA which reflects that the intimation to the RBI is required. The RBI Notification is reproduced hereinbelow:

“In pursuance of Sub-section (1) of Section 31 of the Foreign Exchange Regulation Act, 1973 (46 of 1973) and in supersession of As Notification No. FERA 100/92-RB dated 8th January 1992, the Reserve Bank is pleased to grant general permission to foreign citizen of Indian origin, to acquire by way of purchase or inheritance and depose of by way of sale any immovable property, not being agricultural land/farm house/plantation property, situate in India, and to acquire by way of gift and dispose of by way of sale or gift any residential property situate India subject to the following conditions:



1.(a) In the case of purchase the entire consideration is paid out of foreign exchange brought into India through normal banking channel or out of the funds held in Non-Residential External (NRE) Rupee or Foreign Currency Non-Residential (FCNR) account maintained by the purchaser in India. Purchase of residential property is, however, permissible only for bona fide residential purpose of the purchaser, and it shall not be let out except where it is not immediately required for that purpose.

(b) Any person, seeking repatriation of permissible portion of sale proceeds of any such immovable property, may apply to the Chief General Manager, Exchange Control Department, Foreign Investment Division (III), Reserve Bank of India, Central Office, Mumbai in the form specified, at the earliest.”

(Emphasis Supplied)

28. It is evident that the transactions executed by Respondent No.2, a foreign citizen of Indian origin, fall squarely within the scope of the general permission granted under the RBI Notification. The Respondents have demonstrated that the purchase consideration for the Second Floor, together with roof and terrace rights, was remitted through NRO and NRE accounts in accordance with the procedural requirements prescribed by the RBI. Further, the Declaration (IPI7) dated 18.08.1998 submitted by Respondent No.2 was duly accepted and acknowledged by the RBI vide its letter dated 14.12.1998. In consequence, the transaction is fully compliant with the statutory provisions under FERA and the procedural mandates stipulated by the RBI Notification.”

15. From the aforesaid observations of the Division Bench, it is palpably clear that the Court has decided the additional issue settled between the parties in the suit and held that the transactions executed by Respondent No.2 fall squarely within the scope of general permission granted under RBI Notification and that Respondents have demonstrated that purchase consideration for 2nd floor, together with roof and terrace rights, was remitted through NRO and NRE accounts in accordance with procedural requirements prescribed by RBI. The Division Bench has also observed that declaration (Form IPI-7) dated 18.08.1998 was duly accepted by RBI and in consequence, the transaction is fully compliant with statutory provisions



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under FERA and procedural mandates of RBI Notification. Significantly, RBI maintains the stand even today that mere delay in submission of the declaration may not invalidate the acquisition if exchange control requirements are complied with as also that prevailing guidelines allow acquisition of residential immovable property by foreign citizens of Indian origin from repatriable funds i.e., NRE and FCNR accounts and in the present case, portion of purchase amount was paid through NRO account (non-repatriable funds) and thus RBI accepted the declaration with a caveat that Respondent No.2 is eligible for repatriation of USD 18134.70 only (funds used from FCNR account). I am thus of the view that there is merit in the preliminary objection raised by the Respondents that the issues sought to be agitated by the Petitioner in the present writ petition have been duly considered and decided by the Division Bench in RFA (OS) 13/2025 and RFA (OS) 14/2025 and cannot be reopened in these proceedings.

16. On this short ground and without entering into the merits of the case, this writ petition is dismissed, making it clear that this order will not preclude the Petitioner from taking recourse to any other appropriate remedy.

17. Pending application stands disposed of.

JYOTI SINGH, J

DECEMBER 2, 2025/YA