IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2026

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

W.P.Nos. 10845 & 8454 of 2001
and
WVMP No. 211 of 2008

W.P.No. 10845 of 2001

Sheik Kamal
S/o. S.S.A.Shakul Hameed,
West Street, Keelakarai

.. Petitioner

vs

1.The Competent Authority,
Smugglers, Foreign Exchange Manipulators
(Forfeiture of Properties) Act, Chennai.

2.The Appellate Tribunal for Forfeited
Property, New Delhi.

.. Respondents

Prayer in W.P.No. 10845 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the second respondent the Appellate Tribunal for Forfeited Property, New Delhi in the order dated 31.01.2001 made in FPA.No.72/Mds/95 confirming the findings of the Competent Authority, Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, Chennai in OCA/MDS/348-351/76 dated 2.2.2000 and quash the same.

W.P.No. 8454 of 2001

Hussain Jalal @ Hussain
S/o. S.S.A. Shakul Hameed,
14, Ethiraj Lane,
Egmore, Chennai – 600 008.

.. Petitioner

vs

1.The Competent Authority,
Smugglers, Foreign Exchange Manipulators
(Forfeiture of Properties) Act, Chennai.

2.The Appellate Tribunal for Forfeited
Property, New Delhi.

.. Respondents

Prayer in W.P.No. 8454 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the second respondent the Appellate Tribunal for Forfeited Property, New Delhi in the order dated 31.1.2001 made in FPA.No.67/Mds/95 confirming the findings of the Competent Authority, Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, Chennai in OCA/MDS/348-352/76 dated 2.2.2000 and quash the same.

For Petitioner	:	Mr.B.Kumar Senior Counsel for Mr.S.Ramachandran (in both writ petitions)
For Respondents	:	Mr.ARL.Sundaresan Additional Solicitor General assisted by Mr.B.Rabu Manohar, SCGPC for R1 R2 – Tribunal (in WP 10845/2001)
		Mr.ARL.Sundaresan Additional Solicitor General assisted by Ms.Sushma, SPC for R1
		R2 – Tribunal (in WP 8454/2001)

COMMON ORDER

(Made by Dr. ANITA SUMANTH, J.)

The challenge is to a common order of the Appellate Tribunal for Forfeited Property, New Delhi, dated 31.1.2001, confirming the findings of the Competent Authority, Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, Chennai in OCA/MDS/348-352/76 dated 2.2.2000.

2. The petitioners are sons of detenu, Shakul Hameed, who had passed away on 17.10.1994. The petitioners as well as their father /

detenu are all persons affected as per Section (2) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (Act). Notices under Section 6(1) had been issued on 09.02.1997 to all three.

3. We are concerned specifically with the notices issued to the writ petitioners, proposing to forfeit the following lands.

SCHEDULE

S.No.	Description of the property					Name of the present holder of property
1	2					3
Agricultural lands. G.R. Patta No.	S.No	Extent	Asst.	Classification	Village	
959	140/2	5.22	20.88	Wet land	Nallirukkai	Sri Shaik Kamal
959	140/1	1.08	4.32	-do-		
959	139/1	2.20	1.78	Dry land		

Value of the above Rs.10,000.

SCHEDULE

S.No.	Description of the property					Name of the present holder of property
1	2					3
Agricultural lands. G.R. Patta No.	S.No.	Extent	Asst.	Classification	Village	
960	146/1B	0.69	2.76	Wet lands	Nallirukkai	Sri
960	83/1A	0.72	3.60	"		
960	73/6A	0.34	1.70	"		
960	64/5A	0.46	2.30	"		
960	59/2A	0.40	2.00	"		
960	86/1A	0.70	3.60	"		
960	61/1A	2.03	10.15	"		

Value of the above Rs.10,000.

4. The writ petitioners had, in response to the notices under Section 6(1), tendered explanations dated 31.3.1995 to the effect that they were minors when the properties had been acquired, acceding to the position that the acquisition had been in their names by the detenu. The competent

authority thus forfeited the properties, being of the view that no valid explanation was tendered by them and there was a clear link established by the respondents qua the subject properties and the tainted money of the detenu.

5. The Tribunal confirmed the orders rendering a categoric finding of fact to the effect that the writ petitioners had no independent sources of income, and had also established no other sources by which the subject properties could have been acquired by them. It is assailing the aforesaid conclusions of fact that the present writ petitions have been filed.

6. We have heard Mr.B.Kumar, learned Senior Counsel, for Mr.S.Ramachandran, for the petitioner and Mr.ARL.Sundaresan, learned Additional Solicitor General, assisted by Mr.B.Rabu Manohar, SCGPC and Ms.Sushma, learned Senior Panel Counsel, for R1.

7. The facts are not in dispute, in that the subject properties, even as per the explanation tendered by the writ petitioners, have been purchased in their names by detenu when they were minors. Though substantial stress has been laid upon the judgment of the Supreme Court in the case of *Attorney General for India v Amratlal Prajivandas and other* reported in AIR 1994 SC 2179, we are of the considered view that the judgment would not advance the case of the petitioners before us.

8. It is true that in the case of *Attorney General* (supra), the

Supreme Court has made it clear that it is incumbent upon the competent authority to establish the link between the properties sought to be forfeited and the tainted funds of the detenu. In fact, they have gone to the extent of stating in paragraph 44 that *'the idea is not to forfeit the independent properties of such relatives or associates which they may have acquired illegally but only to reach the properties of the convict/detenu or properties traceable to him, wherever they are, ignoring all the transactions with respect to those properties'*.

9. These observations would come to the aid of properties that, though acquired illegally by the holder, could not be traced back to the tainted funds. Thus, in other words, even a property acquired illegally by a holder could be saved, if the competent authority was unable to establish a link to the funds of the detenu.

10. However, in the present case, even the explanation tendered by the writ petitioners is to the effect that the properties had been acquired only by the detenu, albeit in their names. These factual findings are concurrent, having been confirmed by the Tribunal as well, and the petitioners are not in a position to dislodge or disprove the same.

11. In fact, we had called for the records of the competent authority that have been produced before us by the respondents, wherein explanation dated 31.03.1995 tendered by the petitioners makes it crystal

clear that they do not have any independent or other sources of income from which the subject properties might have been acquired by them.

12. In such circumstances, the orders of the Tribunal, to the extent to which it relates to the writ petitioners, are confirmed and these writ petitions are dismissed. No costs. Connected miscellaneous petition is closed.

[A.S.M, J.] [S.M, J.]
13.03.2026

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

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DR. ANITA SUMANTH,J.
and
SUNDER MOHAN,J.

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