

(2021) 04 ATPMLA CK 0002

Appellate Tribunal Under Prevention Of Money Laundering Act

Case No: MP-PMLA-8563, 8564, 8565, 8566/DDN/2021, FPA-PMLA-4008, 4009/DDN/2021

Vikramjeet Singh

APPELLANT

Vs

Deputy Director Directorate Of
Enforcement, Dehradun

RESPONDENT

Date of Decision: April 1, 2021

Acts Referred:

- Prevention Of Money Laundering Act, 2002 - Section 26

Hon'ble Judges: G. C. Mishra, Acting Chairman

Bench: Single Bench

Advocate: Bhabna Das, Praveen Chaudhary, N.K. Matta

Judgement

G. C. Mishra, Acting Chairman

The matters are taken up through Video Conferencing. The appearances of the learned counsels are as above.

MP-PMLA-8564/DDN/2021 (U.H.) in FPA-PMLA-4008/DDN/2021 &
MP-PMLA-8566/DDN/2021 (U.H.) in FPA-PMLA-
4009/DDN/2021

The present applications have been filed by the applicants/appellants seeking to hear the accompanying appeals and applications for interim order on

the grounds stated therein. The same are considered, allowed and disposed of.

FPA-PMLA-4008/DDN/2021 & MP-PMLA-8563/DDN/2021 (Stay)

FPA-PMLA-4009/DDN/2021 & MP-PMLA-8565/DDN/2021 (Stay)

Fresh appeals have been filed under Section 26 of the Prevention of Money Laundering Act, 2002 against the impugned order dated 12.03.2021

passed by the Adjudicating Authority in O.C. No. 1353/2020.

Alongwith the appeals the appellants/applicants have filed the stay applications seeking ex-parte stay of the impugned order dated 12.03.2021 passed

by the Adjudicating Authority in O.C. No. 1353/2020.

Issue notice in the appeals and as well as in the stay applications. Shri N.K. Matta, the learned counsel for the Respondent accepted the notice.

During the course of hearing it is submitted by the learned counsel for the appellants that they have received eviction notices dated 22.03.2021

wherein it is directed to vacate the properties within ten days which is expiring tomorrow which is a holiday. The details of the properties mentioned in

the eviction notices are as follows:-

(i) Khasra no. 155 having total area 0.595 hectare located at

(ii) Khasra no. 194 min, Rakva 0.607 hectare, village Banskhera

(iii) Agricultural land measuring area 0.431 hectare, Khasra no. 163, village Banskhera Kala, Kashipur, Udham Singh Nagar

(iv) Khasra no. 164 having total area 0.160 hectare located at Banskhera Kala Kashipur

(v) Agricultural land measuring area 0.077 hectare, Khasra no. 171/1, village " Banskhera Kala, Kashipur, Udham Singh Nagar

(vi) Agricultural land measuring area 0.039 hectare, Khasra no. 171/2, village " Banskhera Kala, Kashipur, Udham Singh Nagar

(vii) Agricultural land measuring area 0.073 hectare, Khasra no. 155, village " Banskhera Kala, Kashipur, Udham Singh Nagar

(viii) Agricultural land area 0.153 hectare, Khasra no. 193, village " Banskhera Kala, Kashipur, Udham Singh Nagar

It is submitted by the learned counsel for the appellants/applicants that the aforesaid properties have been attached as a value equivalent to the

proceeds of crime and that the alleged proceeds of crime have not been used to acquire the aforesaid properties and that the period of commission of

alleged offences are of the year 2016 whereas the property at sr. no. (i) has been acquired in the year 2012, property at sr. no. (ii) acquired in the

year 2008 and that the property at sr. no. (iii) is an ancestral property which has been gifted by the appellant to his brother Shri Jugraj Singh in the

year 2016 by way of registered gift deed and all the documents of conveyance have been filed before the Adjudicating Authority and that property at

sr. no. (iv) to (viii) are ancestral properties and that all the aforesaid lands are agricultural lands and that the appellants and their family members have

grown wheat and rabi crops in the aforesaid agricultural lands and that they are living on it and that if the appellants are dispossessed then the

appellants and their family members will starve.

On the aforesaid grounds the learned counsel for the appellants are seeking stay of the impugned order and pleaded in the stay applications that the

appellants have prima facie case on merits on their favour and that balance of convenience is on their side and grave prejudice and irreparable injury

would be caused if the POA, the impugned order and the notice for eviction dated 22.03.2021 are not stayed during the pendency of the present

appeals and on the other hand, no hardship will be caused to the Respondent in the event status quo is maintained. It is agreed by the learned counsel

for the appellants they will abide by any conditions, if any, imposed.

On the other hand the learned counsel for the Respondent submitted that the appellants may be directed to deposit the proceeds of income they are

earning from the agriculture with the Respondent (ED). However, he has submitted that he may be granted six weeks time to file the replies to the

appeals as well as stay applications, which is not objected. Let the replies to the appeals as well as stay applications be filed within six weeks with

advance copies to be served on the other side. The learned counsel for the appellants has sought four weeks time to file the rejoinders to the replies to

the appeals which is considered and allowed. Let the same be filed within four weeks with advance copies to be served on the other side.

Heard both sides and perused the material available on records. The aforesaid properties have been attached as a value equivalent to the proceeds of

crime and that and that the period of commission of alleged offences are of the year 2016 whereas the property at sr. no. (i) has been acquired in the

year 2012, property at sr. no. (ii) acquired in the year 2008 and that the property at sr. no. (iii) is an ancestral property which has been gifted by the

appellant to his brother Shri Jugraj Singh in the year 2016 by way of registered gift deed and all the documents of conveyance have been filed before

the Adjudicating Authority and that property at sr. no. (iv) to (viii) are ancestral properties and that all the aforesaid lands are agricultural lands and that the appellants and their family members have grown wheat and rabi crops in the aforesaid agricultural lands and that if the appellants are dispossessed then the appellants and their family members will suffer a lot. The prayer of the Respondent to deposit the income from the agricultural produce with the Respondent is not agreed to mainly because of the facts that the properties have either been acquired prior to the commission of alleged offence or being ancestral properties.

From the above, I am of the considered view that the appellants have sufficiently provided material showing prima facie case for grant of order of status quo with respect to the aforesaid properties and that irreparable injury would be caused which cannot be compensated in terms of money if they are prevented from getting the fruits of their hard labour and investment they have made in growing the wheat and rabi crops and that the appellants and their family members will face starvation. The balance of convenience lies in favour of the appellants for grant of status quo in the given facts and circumstances.

In view of the above, both the parties are directed to maintain "status quo" with respect to the aforesaid properties till the next date of hearing.

However the order of "status quo" is subject to the following conditions:-

- (i) Attachments shall continue.
- (ii) The legal and constructive possession of the properties in question shall remain with the Enforcement Directorate;
- (iii) The appellants are prohibited to create any third party right or dispose of the properties in question in any manner;
- (iv) No encumbrance shall be created by the appellants in respect of the said properties.
- (v) The appellants are directed not to change the nature and character of the properties.

With the consent of both the parties, list the matter on 04th August, 2021.