

(2021) 01 ATPMLA CK 0007

In the Appellate Tribunal Under Prevention Of Money Laundering Act

Case No : MP-PMLA-7945, 7948, 7951, 7953/SML/2020, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101/SML/2021, FPA-PMLA-3817, 3818, 3819, 3820/SML/2020

Deep Ram Thakur

APPELLANT

Vs

Deputy Director Directorate Of Enforcement, Shimla

RESPONDENT

Date of Decision : 20-01-2021

Acts Referred:

Prevention Of Money Laundering (Taking Possession Of Attached Or Frozen Properties Confirmed By The Adjudicating Authority) Rules, 2013 — Rule 5(4)
Code Of Civil Procedure, 1908 — Section 151, Order 39 Rule 2(A)
Registration Act, 1908 — Section 18, 54

Citation : (2021) 01 ATPMLA CK 0007

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

Bench : Single Bench

Advocate : Hemendra Singh Kashyap, Parul Dagar, Mohammad Faraz

Judgement

G. C. Mishra, Acting Chairman

MP-PMLA-8094/SML/2021 (U.A.), MP-PMLA-8096/SML/2021 (U.A.), MP-PMLA-8098/SML/2021 (U.A.) & MP-PMLA-

8100/SML/2021 (U.A.)

In view of the eviction notices dated 12.01.2021 the appellants/applicants have filed these urgent applications on dated 18.01.2021 for hearing of the

miscellaneous applications bearing no(s). MP-PMLA-8095/SML/2021, MP-PMLA-8097/SML/2021, MP-PMLA-8099/SML/2021 & MP-PMLA-

8101/SML/2021 in aforesaid appeals respectively. Accordingly, the prayers for urgent hearing are considered and allowed by fixing the cases for

today. The urgent applications are accordingly disposed of.

MP-PMLA-8095/SML/2021 (Misc.), MP-PMLA-8097/SML/2021 (Misc.), MP-

PMLA-8099/SML/2021 (Misc.) & MP-PMLA-
8101/SML/2021 (Misc.)

These applications have been filed by the appellants/applicants under Order XXXIX Rule 2(A) CPC read with Section 151 CPC with prayers to

punish the respondent (ED) for contemptuous act on the part of the respondent, who acted in contradiction to the dictum of the order dated 14.12.2020

passed by the Appellate Tribunal to maintain the status quo till the next date of hearing.

The aforesaid prayers have been made inter-alia on the ground that the respondent (ED) has issued notices dated 12.01.2021 to hand over the

possession in spite of the order of status quo passed by this Tribunal on 14.12.2020 with respect to the properties mentioned in the notices. The

appellants have made reference to the order of this Tribunal dated 14.12.2020.

Upon hearing, issue notice. Mr. Mohammad Faraz, learned counsel for the respondent (ED) accepts notice.

The applications are heard. The learned counsel for the appellants/applicants submits that the respondent (ED) has violated the order of this Tribunal

passed on dated 14.12.2020 and further submitted that this Honâ??ble Tribunal please to pass an order of status quo and in spite of the same, the

respondent (ED) has issued notices to hand over the possession of the two properties clearly mentioned in the previous order. It is further submitted

that the status quo order is till the next date of hearing, so the respondent (ED) could not have issued the notices dated 12.01.2021.

On the other hand, the learned counsel for the respondent (ED) submitted that there is no violation of the order and the respondent (ED) has issued

the notices dated 12.01.2021 which are in the line of the order passed by this Tribunal on 14.12.2020, so the applications are liable to be dismissed.

Heard both sides, perused the applications and also the order passed by this Tribunal on 14.12.2020. On the last date i.e. on 14.12.2020 the respondent

(ED) categorically submitted that they have already taken possession of all the properties except the two properties specifically mentioned in the said

order. There were certain observations in the order made by this Tribunal. The relevant portion of the order dated 14.12.2020 is reproduced below:

â??I have heard the submissions made by both the parties and perused the materials available on record. After due consideration of the

submissions, I find that the appellants could not make out any prima facie case for grant of stay order of "status quo" in respect of the properties in question.

I don't find any prima facie case or any irreparable injury or balance of convenience for grant of stay order in favour of the appellants.

The property mentioned at serial no.(i) above is an under construction premises whereas Shri Ajay Thakur, the appellant no.3 has stated to

have assured the respondent (ED) to remove the plant & machinery stationed therein. The appellant no.3 Shri Ajay Thakur is allowed to do

so and thereafter, the respondent (ED) may, if the possession is not yet taken, the respondent (ED) may take possession. So far as, the

property mentioned at serial no.(ii) above is concerned, some floors of the 5 storey building are rented out to two tenants without any

written agreement and as per the following provisions the said premises are required to be handed over by the tenants. During the course of

hearing, it was submitted by the learned counsel for the respondent (ED) that the tenants have assured to vacate the premises shortly and, to

hand over the possession of the same, and this submission was not controverted by the learned counsel for the appellants.

The respondent (ED) may take the possession of above mentioned two properties as per the Rule 5(4) of the manner of taking possession of

immovable property under the provisions of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties

Confirmed by the Adjudicating Authority) Rules, 2013 ("the Rules"), which is quoted below:

"5. Manner of taking possession of immovable property.-

(4) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., and is given

on lease or rent to any third party where the registration is optional in accordance with the provision of section 18 of the Registration Act,

1908, the authorized officer shall proceed to get the premises vacated and the possession shall be taken by seeking the assistance of local

Authorities in terms of section 54 of the Act;

However, in the given fact and circumstances, both the parties are directed to maintain the "status quo" with respect to the properties

involved in the present appeals, in terms of the orders/observations made above, till next date of hearing.â??

In the light of order dated 14.12.2020 and the observations made therein, the issue of impugned notices dated 12.01.2021 does not violate the order of

this Tribunal, therefore, the applications have no merit and accordingly dismissed.

List the appeals and stay applications on 26th February, 2021, the date already fixed.