
(2021) 03 ATPMLA CK 0021

In the Appellate Tribunal Under Prevention Of Money Laundering Act

Case No : MP-PMLA-8477, 8478/JP/2021, FPA-PMLA-3980/JP/2021

Sunil Kumar

APPELLANT

Vs

Deputy Director Directorate Of Enforcement, Jaipur

RESPONDENT

Date of Decision : 25-03-2021

Acts Referred:

Prevention Of Money Laundering (Taking Possession Of Attached Or Frozen Properties
Confirmed By The Adjudicating Authority) Rules, 2013 — Rule 5(2)
Prevention Of Money Laundering Act, 2002 — Section 8(4), 26

Citation : (2021) 03 ATPMLA CK 0021

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

Bench : Single Bench

Advocate : Vatsalya Vigya, Neeraj Atri

Judgement

MP-PMLA-8477/JP/2021 (Exem.)

The appellant has filed application seeking exemption from filing certified copy of the impugned order dated 12.02.2021 passed by the Adjudicating

Authority in Original Complaint (O.C.) No.1352 of 2020. The prayer is considered and allowed. The appellant to file the certified copy of the

impugned order by the next date. The application filed for seeking exemption from filing certified copy of the impugned order is disposed of

accordingly.

MP-PMLA-8478/JP/2021 (Stay) & FPA-PMLA-3980/JP/2021

Fresh appeal has been filed by the appellant under Section 26 of the Prevention of Money Laundering Act, 2002 (â??PMLAâ??) against the order

dated 12.02.2021 passed by the Adjudicating Authority, New Delhi under PMLA, passed in O.C. No.1352/2020.

Upon hearing, issue notice. Mr. Neeraj Atri, learned counsel accepts notice on

behalf of the respondent (ED). The learned counsel for the respondent seeks six weeks time to file the reply to the appeal, which is not objected. Considered the prayer and the same is allowed. The learned counsel for the respondent is granted six weeks time to file reply to the appeal with advance copy to the other side. The learned counsel for the appellant has sought two weeks time to file rejoinder, if any, after receipt of the copy of the reply to the appeal. The same is also considered and allowed.

Along with the appeal the appellant has filed application seeking stay on the operation of impugned order dated 12.02.2021 as well as ad-interim stay on the eviction notice dated 08.03.2021 issued by the Respondent (ED) under Section 8(4) of the PML Act, 2002 read with Rule 5(2) of the

Prevention of Money-Laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013,

directing the appellant to vacate said premises i.e. Agriculture Plot No. 05,, situated at Kila No. 17 in Murabba No. 25, Khata No. 130/116, 7 E

Choti, Tehsil & District-Sriganganagar admeasuring 4.11 Biswa (40*140 Feet) within the stipulated/statutory 10 days period from the date of receipt of the notice.

During the course of hearing, the learned counsel for the appellant inter-alia contended in the application for stay as well as orally submitted that the

appellant has a prima facie case for granting of an interim order of stay as the appellant was never made a party in the Original Complaint and

Provisional Attachment Order was not served upon the present appellant and no summons/notices were issued to the appellant to appear before the

Adjudicating Authority and that the questioned property was purchased by the appellant as the fourth owner of that property, which the appellant had

purchased on 04.07.2019 from Mr. Kunwar Singh and that the ECIR is registered by the respondent (ED) on 11.07.2016 i.e. after the accused Mr.

Ashish Sharma firstly sold the said property to one Mr. Mahendra Pratap in the year 2015 and that the property in question is currently used by the

appellant as a Godown and Store house for sanitary products and now the ED has put up /placed an possession notice board on the aforesaid property

and that the property attached was purchased by the appellant vide Sale Agreement dated 04.07.2019 signed between the appellant and Mr. Kanwar

Singh.

On the aforesaid grounds the appellant is seeking stay of the operation of the impugned order and ad-interim stay on the eviction notice dated 08.03.2021.

Learned counsel for the respondent raised strong objection to the submissions made by the appellant's counsel and granting of any interim relief in favour of the appellant. He further submitted, on instruction, that the Enforcement Directorate has already taken possession of the said property and he has no objection if the order of status quo is passed.

Heard both sides on the applications for stay of the impugned order and the application for stay of the operation of eviction notice dated 08.03.2021.

Both the parties have agreed to maintain "status quo" as on today with respect to the aforesaid property till the next date of hearing.

The aforesaid order of ad-interim "status quo" is granted subject to the following conditions:-

- i. Attachments shall continue.
- ii. The legal and constructive possession of the property in question shall remain with the Enforcement Directorate, if the physical possession is not taken by the Enforcement Directorate;
- iii. The appellant is prohibited to create any third party right, transfer or dispose of the property in question in any manner;
- iv. Neither party is allowed to alter the nature and character of the property in question, as on today.
- v. No encumbrance shall be created by the appellant in respect of the aforesaid property.

Respondent (ED) is granted six weeks time to file the reply to the stay application with an advance copy to be served on the other side.

With the consent of both the parties, list the matter on 26th July, 2021.