

(2016) 09 DEL CK 0133

In the Delhi High Court

Case No : LPA No. 494 of 2016.

**Triad Trading Services P. Ltd. - Appellant @HASH The Hon''ble
Adjudicating Authority and Others**

Date of Decision : 07-09-2016

Acts Referred:

Citation : (2016) 9 ADDelhi 246

Hon'ble Judges : Ms. G. Rohini, CJ. and Sangita Dhingra Sehgal, J.

Bench : Division Bench

**Advocate : Mr. R. Subramanian with Mr. Arnav Dash, Advocates, for the
Appellant; Mr. Sanjeev Narula, CGSC with Mr. Ajay Kalra, Advocate, for the UOI**

Final Decision : Disposed Off

Judgement

Ms. G. Rohini, C.J.(Oral) - These two appeals filed under Clause X of the Letters Patent arise out of the proceedings in W.P.(C) No. 5663/2016 and W.P.(C) No. 5214/2016 respectively.

2. Both the said writ petitions are still pending before the learned Single Judge. The writ petitioners therein are the appellants before us.

3. The facts in brief are as under.

4. Based on Enforcement Case Information Report 26.09.2014 registered under the provisions of Prevention of Money Laundering Act, 2002 (PMLA), the Directorate of Enforcement by order dated 21.03.2016 passed a provisional attachment order in which the appellant in LPA No. 495/2016 (petitioner in W.P. (C) No. 5214/2016) was arrayed as defendant No. 3. In pursuance thereof, show cause notice dated 13.04.2016 under Section 8 of PMLA was issued to the appellant in LPA No. 495/2016 by the Adjudicating Authority calling upon to show cause as to why the provisional attachment order should not be confirmed. Aggrieved by the same, she filed W.P.(C) No. 5214/2016 to quash the entire proceedings initiated under PMLA along with an application for stay of all proceedings before the Adjudicating Authority. When the said writ petition along with the connected petitions was heard by the learned Single Judge on

30.05.2016, a preliminary objection was raised by the respondents as to the maintainability of the writ petition against a show cause notice. An objection regarding the territorial jurisdiction to entertain the petition was also raised. While recording the same, the learned Single Judge adjourned the matter to 07.07.2016 and thereafter to 18.07.2016 to enable the Registrar of the Adjudicating Authority to produce the relevant file. However, the learned Single Judge made it clear that the petitioner/appellant herein shall appear before the Statutory Authority and that the Authority is at liberty to proceed in accordance with law. On 18.07.2016, though the original record was produced before the learned Single Judge, on a request made by the counsel for the petitioner, the writ petition was adjourned to 23.08.2016 to enable him to make his submissions on the preliminary objections raised by the respondents. The said order dated 18.07.2016 was challenged by the writ petitioner by filing a Letters Patent Appeal which was dismissed by the Division Bench by order dated 08.08.2016. In the meanwhile, the writ petitioner i.e., the appellant in LPA No. 495/2016 had also moved a fresh application being C.M. No. 26221/2016 seeking a direction to restrain the respondents from giving effect to any order passed in the proceedings pending before the Adjudicating Authority. The learned Single Judge dismissed the said application by order dated 08.08.2016 observing that the preliminary objections raised by the respondents with regard to the maintainability of the petition are yet to be heard. Thereafter, the main petition appears to have been listed on 23.08.2016 and further adjourned to 09.09.2016.

5. LPA No. 495/2016 came to be filed on 02.09.2016 assailing the said order of the learned Single Judge dated 08.08.2016 in C.M.No. 26221/2016.

6. Coming to LPA No. 494/2016, the appellant therein/M/s Triad Trading Services Limited was covered by the provisional attachment order dated 21.03.2016 by way of corrigendum issued by the Directorate of Enforcement vide proceedings dated 13.6.2016. The said action of the respondents was challenged by filing W.P. (C) No. 5663/2016 along with an application to stay the entire proceedings on the file of the Adjudicating Authority. The said writ petition which was listed before the learned Single Judge on 13.6.2016 was adjourned to 07.07.2016 to be heard along with the connected writ petition. It appears that the matter was again adjourned to 18.07.2016 and thereafter to 27.07.2016. On 08.08.2016 the learned Single Judge adjourned the application for stay i.e., CM No. 26223/2016 to 23.08.2016 in view of the fact that the connected writ petition was listed on 23.08.2016 for consideration of the preliminary objection as to the very maintainability of that petition. It appears that the matter was further adjourned to 31.08.2016 and thereafter to 09.09.2016.

7. The petitioner in W.P.(C) No. 5663/2016/Triad Trading Service Limited therefore filed LPA No. 494/2016 on 02.09.2016 assailing the order of the learned Single Judge dated 08.08.2016 in C.M.No. 26223/2016.

8. In both the appeals it is pleaded that since the inquiry before the Adjudicating Authority under Section 8 of the PMLA has been completed and the orders are

reserved, serious prejudice would be caused if the Adjudicating Authority is allowed to pass an order pending the writ proceedings.

9. It is contended by the learned counsel appearing for the appellants that having regard to the fact that the provisions of PMLA are onerous in nature and any order passed confirming the provisional attachment is likely to result in dispossession of the appellants from the properties attached, it is just and necessary to grant an interim protection by directing that the order, if any, passed by the Adjudicating Authority confirming the provisional attachment shall not be given effect to till the writ petitions are decided. The learned counsel also sought to make various submissions on merits of the case to substantiate the contention that the learned Single Judge committed a grave error in not passing any order on the applications filed in W.P.(C)No. 5663/2016 and W.P.(C)No. 5214/2016 for stay of proceedings before the Adjudicating Authority.

10. However, it is pointed out by Sh. Sanjeev Narula, the learned CGSC appearing for the respondents in LPA No. 495/2016 that the W.P.(C)No. 5214/2016 now stands posted to 09.09.2016 and the preliminary objections raised with regard to the maintainability of the writ petition are yet to be heard by the learned Single Judge. While stating that the writ petition was in fact adjourned at the instance of the writ petitioner herself, it is contended that LPA is misconceived and cannot be entertained.

11. So far as LPA No. 494/2016 is concerned Sh. Anurag Ahuliwalia, the learned CGSC appearing for the respondents while reiterating the submissions made by Sh. Sanjeev Narula, further pointed out that the appellant in LPA No. 494/2016 was not covered by the show cause notice dated 13.04.2016 and a fresh show cause notice dated 27.07.2016 was issued for confirmation of the provisional attachment order in respect of the properties of the said appellant. It is submitted that since the appellant failed to challenge the said show cause notice dated 27.07.2016, no relief can be granted either in the writ petition or in this appeal.

12. As could be seen, both the writ petitions are pending before the learned Single Judge in which the preliminary objections as to the maintainability of the writ petition are yet to be decided by the learned Single Judge. The grievance of the appellants in the present appeals is only with regard to grant of interim relief pending the said writ petitions. The learned counsel for the appellants contends that in facts and circumstances of the appeals it is essential to protect the interests of the appellants by directing the respondents not to give effect to the order of confirmation if any, passed by the Adjudicating Authority.

13. Having regard to the admitted fact that the interim applications in both the writ petitions stand posted to 09.09.2016 and more particularly the preliminary objections with regard to the maintainability of the writ petitions are yet to be decided, we are of the view that the interference by us at this stage is not warranted on any ground whatsoever.

14. However, the learned Single Judge is requested to pass an appropriate order on the applications/petitions of the appellants herein on 09.09.2016 or at the earliest thereafter, after hearing the learned counsel for both the parties.

15. The appeals are accordingly disposed of.