

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 10666 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgment?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?
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ATUL TALAKCHAND ZAVERI

Versus

COMPETENT AUTHORITY UNDER SAFEMA

Appearance: Mr.S.S. Sanjanwala, with MR RS SANJANWALA,
for Petitioner Nos. 1-2

MR NM KAPADIA for Petitioner No. 1-2

MS MANISHA LAVKUMAR for Respondent Nos. 1-3

MR DHAVAL M BAROT for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/06/2004

ORAL JUDGEMENT

By filing this petition under Article 226 of the Constitution of India, the petitioners have challenged the order of forfeiture passed under Section 7 of The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 ("SAFEMA", for short) and the order passed under Section 19 of SAFEMA. The case of the petitioners is that they are bona fide purchasers and, therefore, the Authority has committed an error in passing the order under Section 7, forfeiting the property which is in the possession of the petitioners.

The petitioners have also prayed for interim relief, restraining the Competent Authority from taking away the possession of the property in question from the petitioners, i.e. Bungalow Nos. 1 and 2 of Sharunagar Society, Udhna Magdalla Road, Surat.

A learned single Judge of this Court has admitted this petition and interim relief is also granted. Today, Ms.Manisha Lavkumar, the Standing Counsel, who is appearing for the Competent Authority under the SAFEMA, has pointed out that the very order, which is impugned in this petition, is, subsequently, under challenge by way of statutory appeal before the Appellate Tribunal and such appeal is numbered as : FPA-76-Bombay-2000. Mr.Sanjanwala, learned counsel, has also fairly pointed out that, against the impugned order of the authority, the petitioners herein have filed the aforesaid appeal, which is pending for adjudication before the Appellate Tribunal.

Having realised this position that the order in question is already impugned before the Appellate Tribunal, Mr.Sanjanwala has fairly stated that he wants to withdraw this Special Civil Application since the order in question is challenged before the Appellate Tribunal. Mr.Sanjanwala, however, submitted that this Court has given protection by way of interim relief since considerable period and the said interim relief may be continued till the Tribunal may dispose of the pending appeal. Without treating this order as a precedent, and considering the fact that the interim relief is in operation from 11th October, 2000 and especially when Ms.Manisha Lavkumar pointed out that the matter is already ready for final hearing before the Tribunal and according to her, the Tribunal has adjourned the matter only because this Special Civil Application is pending before this Court, the interim relief granted by this Court is ordered to be continued upto 31st August, 2004, and, in the meanwhile, it is hoped that the Tribunal may dispose of the pending appeal of the petitioners finally before the aforesaid date. In case for whatever reasons, the Tribunal is not in a position to take up the pending appeal, it will be open for the petitioners to ask for extension of the stay order by making appropriate application for extension of the order of interim relief.

It is clarified that this Court has not expressed any opinion on the merits of the issue, as, it is for the Tribunal to decide the appeal on its own merits.

Since Mr.Sanjanwala wants to withdraw this

petition, as indicated above, permission to withdraw this petition is accordingly granted. Rule is discharged. Interim relief stands vacated subject to extension of the same upto 31st August, 2004. No costs.

Writ to be sent to the Tribunal forthwith so as to enable the Tribunal to dispose of the appeal within the stipulated time, as indicated in this order.

30th June, 2004 (P.B. Majmudar, J.)

(apj)