

**IN THE HIGH COURT OF JAMMU & KASHMIR AND  
LADAKH AT SRINAGAR**

**WP(C) No.3105/2024  
CM No.8453/2024**

**M/S MIRZA SONS** **...PETITIONER(S)**

Through: Mr. Shariq J. Reyaz, Advocate.

Vs.

**J&K BANK LTD & ANR** **...RESPONDENT(S)**

Through: Mr. Tasaduq H. Khawaja, Advocate.

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**(ORDER)(ORAL)**  
**31.12.2024**

- 1) The petitioner, through the medium of present petition, has sought a direction upon the respondents, in particular upon respondent No.2, to release the FDR Nos.0323050300807834, 0323050300808321 and 0323050300808439 and the documents pertaining to the properties being D-84, Bharat Nagar, New Friends Colony, New Delhi, Residential Flat No.232, Kailash Hills, New Delhi and Flat No.602, Rattan Jyoti Apartments, Ghaziabad-UP, after adjusting the outstanding amounts.
- 2) Issue notice to the respondents. Mr. Tasaduq H. Khawaja, Advocate, accepts notice on behalf of the respondents.
- 3) Heard and considered.

4) As per case of the petitioner, he is engaged in the business of manufacturing, selling and export of various Kashmiri Handicrafts and in this connection, he has availed various financial facilities from the respondent Bank against which he has pledged aforesaid Fixed Deposit Receipts and aforesaid properties. It has been further contended that during the subsistence of these credit facilities, the aforesaid properties of the petitioner firm and its proprietor were provisionally attached by the Enforcement Directorate in connection with ECIR No.01/SRZO/2018. These provisional attachment orders were confirmed by the Adjudicating Authority designated under the Prevention of Money Laundering Act (for short "PMLA"). A complaint was also filed against the petitioner before the Designated Court at Srinagar.

5) It has also been contended that the petitioner, through the medium of a petition bearing CRM(M) No.160/2020, had challenged jurisdiction of the Enforcement Directorate to investigate and prosecute him in connection with aforesaid ECIR. The said petition was allowed by this court in terms of judgment dated 14.08.2024. As a sequel to the aforesaid judgment, the complaint preferred by the Enforcement Directorate before the Designated court at Srinagar was also dismissed in terms of order dated 27.08.2024.

6) It has been further contended that due to the aforesaid events, the appeals preferred by the petitioner before the Appellate Tribunal under PMLA were allowed and the confirmation of attachment orders were set aside and all the properties of the petitioner firm were released. In this regard, order dated 21.11.2024 came to be passed by the Appellate Authority.

7) It is the further contention of the petitioner firm that it has squared up its credit facilities and the total outstanding credit of the petitioner firm has come down to Rs.13.00 lacs approximately as on 10.04.2024, therefore, the petitioner firm requested the respondent Bank to release the FDRs after adjusting the balance due in the loan account and also to release the documents of the properties mortgaged. This was done in terms of communication dated 04.05.2024. In response to the said communication, the respondent Bank vide communication dated 27.12.2024 has refused to release the FDRs as well as the documents of the mortgaged properties on the ground that the petitioner firm has to obtain clear directions from the Court as the Court has kept it open for the Enforcement Directorate to reinitiate proceedings against the borrower.

8) The documents annexed to the petition clearly indicate that the proceedings launched by the Enforcement Directorate against the petitioner pursuant to ECIR No.01/SRZO/2018

dated 28.12.2018, have been quashed by this Court in terms of judgment dated 14.08.2024 passed in CRM(M) No.160/2020, whereafter the complaint filed by the Enforcement Directorate against the petitioner has also been disposed of by the Designated Court in the light of the judgment of this Court. The Designated court in its order dated 27.08.2024 has made it clear that the properties attached during investigation of the case shall stand released in favour of the petitioner from whom the same have been attached. As per order dated 21.11.2024 passed by the Appellate Tribunal, the appeal of the petitioner against the attachment order has been accepted.

9) In the face of aforesaid developments, there is hardly any clarification needed from this Court. Merely, because the Enforcement Directorate has been given liberty by this Court while passing judgment dated 14.08.2024 and by the Appellate Tribunal while passing order dated 21.11.2024, to re-initiate the proceedings against the petitioner, does not mean that the respondent Bank is justified in withholding the passing of appropriate orders with regard to release of the attached property i.e. FDRs and other immovable properties. The respondent Bank is expected to take a call in the matter in the light of the facts and situation obtaining at present and not what may be done by the Enforcement Directorate or any other agency in future.

- 10) In view of the above, the writ petition is **disposed** of with a direction to the respondents to take a decision with regard to release of FDRs and the documents relating to immovable properties of the petitioner in accordance with law without waiting for any future action that may be contemplated by the Enforcement Directorate or any other agency against the petitioner.
- 11) Disposed of.

(SANJAY DHAR)  
JUDGE

Srinagar  
31.12.2024  
"Bhat Altaf-Secy"

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No

