

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CRA (DB) 395 of 2024

IA NO: CRAN/1/2025

IA NO: CRAN/2/2025

M/s. Rupdarshi Textiles Pvt. Ltd. & Anr.

vs.

Deputy Director, Directorate of Enforcement Kolkata Zone-I & ors.

For the Appellants : Mr. Subir Sanyal, Senior Advocate
Mr. Goutam Dey, Advocate
Mr. Abhijit Mondal, Advocate
Mr. Sourajit Mukherjee, Advocate

For the Respondent
No.1/E.D. : Mr. Arijit Chakrabarti, Advocate
Mr. Debsoumya Basak, Advocate
Ms. Swati Kumari Singh, Advocate

For the Respondent
No.2/ S.B.I : Mr. Debasish Saha, Advocate
Mr. Sanjoy Ghosh, Advocate
Ms. Sucheta Pal, Advocate

Heard on : 13.08.2025, 14.08.2025 & 20.8.2025.

Judgment on : 29.08.2025.

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of a company and one of its shareholders.
Appellant no.2 claims himself to the majority shareholder and Director
of the appellant no.1.

2. Appeal is directed against the order dated November 20, 2024 passed in FEO Case No.1 of 2023.
3. Learned Senior Advocate appearing for the appellants submits that, appellant no.1 is the owner of an immovable property. Such property was purchased in the year 2009. Property was subsequently mortgaged with the bank. Apparently, the erstwhile shareholders of the appellant no.1 committed alleged fraud on the bank. The respondent is seeking to proceed against those individuals. Appellants are neither connected nor concerned with such fraud allegedly committed by the erstwhile shareholders with the bank. Appellants are not recipient of a proceed of crime. The immovable property owned by the appellant no.1 cannot be treated as proceeds of the crime. Consequently, all proceedings as against the appellants and the property should be dropped.
4. Enforcement Directorate and respondent no.2 are represented.
5. Appellant no.1 owns the immovable property. Such immovable property was mortgaged with a bank for the purpose of obtaining loan. Shareholders of the appellant no.1 at that point of time when the loan transaction took place consisted of the family of Baid.
6. Appellant no.2 claims to purchase the majority shareholding in the appellant no.1 from Prem Prakash Baid, father of the accused in the investigations.

7. The share transactions between the Baidis and the present shareholder took place allegedly in January 2012.
8. Admittedly, appellant no.1 owns an immovable property. Such immovable property admittedly was mortgaged for the purpose of repayment of the credit facilities obtained by the then shareholders and Directors of the appellant no.1.
9. There is no material to suggest at this stage, the entirety of the claim of that bank or the financial institution in respect of the credit facilities extended stands satisfied.
10. In course of hearing of this appeal, we called upon the appellants to produce various documents by our order dated August 13, 2025.
11. All such documents were not produced on the next date i.e., August 14, 2025. Further time was granted till August 20, 2025.
12. As on date, every document called for by the order dated August 13, 2025 is not produced.
13. Be that as it may, it transpires that, shares belonging to the Baidis are shown to be transferred to the present shareholders in respect of the appellant no.1, on the basis of cash transaction.
14. The quantum of consideration in cash shown for the share transfer were allegedly paid in cash. The quantum of cash payment are such that it violets the provisions of Income Tax Act.

15. Before the Enforcement Directorate certain affidavits were submitted. Contents of the affidavits are such that, the appellants are required to be subject to the investigation of the Enforcement Directorate.
16. Significantly, the immovable property which the appellant no.1 owns, was initially valued at Rs. 9 Lakh and odd. It was subsequently revalued in excess of Rs.1 Crore while mortgaging it with the bank. Subsequent to the mortgage, the shares of the company is sought to be transferred to others, for few lakhs. In fact, the entire consideration, if added, is unlikely to exceed Rs. 15 lakhs.
17. There are sufficient materials on record to place the appellants under investigations. Materials suggest that, under the facade of the appellant no.1, the actual persons are manipulating the process for the purpose of extracting an immovable property from out of the proceedings of the Enforcement Directorate. The immovable property concerned is no doubt, a proceeds of a crime as it was utilized for the purpose of committing the crime. The immovable property was mortgaged to obtain credit facilities which were never repaid. Accused is still absconding India. Yet such accused transferred the majority shareholding to the appellant no.2. The transaction of transfer of shares in the appellant no.1 is a process in the money laundering involved. The property cannot come out from the process of the investigations of the Enforcement Directorate.

18. Original documents, which were directed to be kept with the learned advocate on record for the appellants are permitted to be returned to the appellants.
19. **CRA (DB) 395 of 2024** alongwith connected applications are **dismissed**.

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)