

12.7.2022
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WPA 8539 of 2022

sl. 4

Renu Devi Banka & Ors.
Vs
Union of India & Ors.

Mr. Suddhasatwa Banerjee,
Mr. Aditya Garodia,
Mr. Pintu Ghosh,
Mr. S. Nayak,
Mr. U. Garodia

... For the Petitioners.

Mr. Arijit Chakraborti

... For the Respondent/E.D.

Mr. Narendra Prasad Gupta

... For the Respondent No.1.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned show-cause-notice dated 3rd February, 2022 issued by the Special Director, Directorate of Enforcement, Adjudicating Authority, Chandigarh, against the 24 persons who are third parties/ noticees and none of them are the petitioners in this Writ Petition and further challenged the complaint dated 21st October, 2021 lodged by the Assistant Director, Directorate of Enforcement, Jaipur Zonal Office, Jaipur before the Special Director of Directorate of Enforcement, Chandigarh, Adjudicating Authority, against those third parties/noticees. It appears from record that those persons whose offices/residence were searched and seizure was made by the Enforcement Directorate, Jaipur, are located in

different parts of the country including one of the noticees at his residence at Kolkata in whose residence petitioners are claiming to be living with him at the time of search and seizure in question. On perusal of the aforesaid impugned show-cause-notice dated 3rd February, 2022 being Annexure P-8 at page 61 of the writ petition, it appears that noticees referred therein were asked to give response to the same within 30 days from the date of receipt of the said notice as to why adjudication proceedings as contemplated under Section 16 read with Section 13 of FEMA, 1999 should not be held against them. It does not appear from record annexed to the writ petition that the aforesaid noticees have ever responded to the aforesaid impugned show-cause notice dated 3rd February, 2022. It appears from the Panchnama annexed to the writ petition at page 37 of the writ petition that a cash amounting to Rs.12,20,000/- was found from the bed room of one of the noticees Sri Gopal Krishna Banka along with whom petitioners are claiming to be residing at Kolkata at the time of search and seizure in question. It also appears from the said Panchnama that as per ITR, Balance Sheet, cash in hand as on 1st April, 2019, were shown by the said noticee, Sri Gopal Krishna Banka was Rs.17,571/- and by Smt. Renu Devi Banka one of the petitioners was Rs.72,139/- and

at the time of search and seizure Rs.70,000/- were returned and not seized.

Petitioners who are none of the 24 noticees in the aforesaid impugned show-cause notice dated 3rd February, 2022, have filed this petition making prayer for quashing of the aforesaid impugned show-cause notice issued by the Special Director, Directorate of Enforcement, Adjudicating Authority, Chandigarh, against the third party/ 24 noticees residing at different parts of India, some are in Chennai, some are in Jaipur and some are in Kolkata, by claiming that the cash money amounting to Rs.11,50,000/- which was seized from the residence of Sri Gopal Krishna Banka at Kolkata, who is the husband of the petitioner No.1 and two other petitioners, who are the daughters of Sri Gopal Krishna Banka, belonged to the petitioners. Petitioners further contend that the said seized cash amount have already been disclosed in the Income Tax Return of the petitioner No.1 which is highly disputed by the respondents since in Panchnama it has been specifically recorded that the seized amount in question was recovered from the possession of the said Sri Gopal Krishna Banka at his residence and which is subject matter of pending adjudication proceedings before the adjudicating authority at Chandigarh.

Mr. Chakrabarti, learned Advocate appearing for the respondent Nos. 4 to 7/Enforcement Authorities at Jaipur opposes this writ petition both on merits and on maintainability of the writ petition on the ground of lack of territorial jurisdiction of this Court. He submits that the address of respondent Nos. 2 to 3 in the cause title of the writ petition shows their addresses at Kolkata which do not exist at the said address, address of the Respondent No.1 has been shown at New Delhi and admittedly address of respondent Nos. 4 to 7 are in Jaipur who conducted the impugned search and seizure against whom relief has been claimed in this Writ Petition and address of the respondent No. 8 has been shown in the cause title at Chandigarh before whom impugned adjudication proceeding is pending. He further submits that prayer made by the petitioners for quashing of the impugned show-cause notice dated 3rd February, 2022 issued by the Enforcement Authority at Jaipur is outside the territorial jurisdiction of this Court and also the complaint dated 21st February, 2021 on the basis of which impugned adjudication proceedings has been initiated is pending at Chadigarh and the offices of all these respondents authorities fall outside the territorial jurisdiction of this writ Court. He further submits that the prayer for quashing of the impugned

show-cause-notice issued by the Jaipur Authority at Rajasthan has been made by the petitioners issued against the third parties/noticees and not by the noticees themselves and the said noticees have neither challenged the impugned show-cause notice by the Enforcement authorities at Rajasthan nor the said complaint before the adjudication proceedings pending at Chandigarh. He also submits that from nowhere it appears from record annexed to the writ petition that even those noticees have responded to the impugned show-cause notice which they were to respond within 30 days from the date of receipt of the impugned show-cause notice.

Considering the facts and circumstances of the case I am of the considered view that writ Court in exercise of its Constitutional writ jurisdiction under Article 226 of the Constitution should not investigate the ownership of such disputed amount of cash money seized from the possession of one of the noticees at Kolkata in course of search and seizure in question while petitioners are claiming the same as their own money. It is well settled principle of law that High Court in exercise of its Constitutional writ jurisdiction under Article 226 of the Constitution of India should not investigate and adjudicate the title or ownership of any

disputed immovable or movable properties and declare the ownership of the same in favour of one party.

Considering the facts and circumstances of the case and the submission of the parties and in view of the fact that this Writ Petition filed by the petitioners challenging the impugned show-cause notice and prayed for quashing of the same are by none of the noticees and noticees have not challenged the same which has been issued by the Enforcement Authority at Jaipur in Rajasthan and none of the noticees have filed this Writ Petition challenging the impugned adjudication proceedings in question arising out of the impugned search and seizure proceedings out of which impugned adjudication proceedings are pending at Chandigarh and in view of the fact that the highly disputed question of ownership of the seized cash amount in question is involved which is a part of the said pending adjudication proceeding at Chandigarh which the petitioners want release by the order of this writ court, I am not inclined to entertain this writ petition.

In view of the discussion made above, this writ petition being WPA 8539 of 2022 is dismissed.

(Md. Nizamuddin, J.)