

Pareed vs Union of India Represented by the Secretary

Pareed vs Union of India Represented by the Secretary

SooperKanoon Citation : sooperkanoon.com/1336243

Court : Kerala

Decided On : Aug-11-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/3675/2023

Appellant : Pareed

Respondent : Union of India Represented by the Secretary

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 11TH DAY OF AUGUST 2023 / 20TH SRAVANA, 1945
PETITIONER: PAREED, AGED 62 YEARS, S/O.IBRAHIM,
KAKKAIPOTHEMPURAYIL, PAIPARA, MULAVOOR VILLAGE,
MOOVATTUPUZHA, ERNAKULAM, PIN - 686 673. BY ADVS. R.ANIL
B.RAMAN PILLAI (SR.) SUJESH MENON V.B. THOMAS ABRAHAM
(NILACKAPPILLIL) THOMAS SABU VADAKEKUT MAHESH BHANU S.
RESPONDENTS: 1 UNION OF INDIA REPRESENTED BY THE
SECRETARY, GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, 6TH FLOOR, B WING, JANPATH
BHAVAN, JANPATH, NEW DELHI - 110 001. 2 THE COPETENT

AUTHORITY, (SAFEMA & NDPS), UTSAV BUILDING, 147/1, GO, CHENNAI - 600 017. 3 SUB REGISTRAR, SUB REGISTRAR OFFICE, MOOVATTUPUZHA, PIN - 686 673. BY ADV SUVIN R MENON SMT. PREETHA K K (SR GP) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner had purchased 52.520 cents of land comprised in Sy.Nos.816/1A/7-22 and 85/9 from one Kunjumohammed through a deed registered at the SRO, Moovattupuzha on 10.01.2007. The 2nd respondent passed an order of attachment under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act [SAFEMA Act] in furtherance of an order of detention under the COFEPOSA Act against one Yasir Ibnu Muhammed, son of the aforesaid Kunjumohammed in connection with the smuggling of gold through Nedumbassery Airport during 2015 to 2016.

2. The learned counsel for the petitioner would submit that

the proceedings against the petitioners property are being continued on the basis that the property was obtained by the original owner out of proceeds of smuggling. It is submitted that at the time when the petitioner purchased the property Yasir Ibnu Muhammed [son of the aforesaid Kunjumohammed] was a minor and by no stretch of imagination can it be said that the property, which was purchased by the petitioner can be subject matter of any proceedings under the SAFEMA Act. The learned counsel appearing for the petitioner refers to an order issued by this Court in W.P.(C) No.12322 of 2023 dated 24.07.2023 and would submit that in almost similar circumstances, this Court had directed the competent authority to consider the objections raised by the affected persons in that case and to take a decision as to whether the proceedings should be continued against the property in question after affording an opportunity of hearing to the petitioners in that case. It is submitted that the petitioner in this case will be satisfied if a similar direction is issued.

3. Adv.Suvin R Menon, the learned Central Government

Counsel appearing for the official respondents would submit that the question as to whether the property of the petitioner can be proceeded against is a matter to be adjudicated and presently only an order of attachment has been issued in respect of the property. It is submitted that a notice has been issued under Section 6 of the SAFEMA Act, which has the effect of an attachment over the property. It is submitted that the petitioner will get all opportunity to defend the proceedings before final orders are passed by the competent authority. On a specific question from the Court, he submits that there is no objection in directing the competent authority to take a decision in the matter after hearing the objections, if any, raised by the petitioner.

Having regard to the submissions made by the learned counsel

for the petitioner and the learned Central Government Counsel and having regard to the directions issued by this Court in W.P.(C) No.12322 of 2023 , this writ petition will stand disposed of directing that Ext.P1 objection filed by the petitioner shall be considered by the competent authority (2nd respondent), after affording an opportunity of being heard to the petitioner or his authorized representative and orders shall be passed in the matter, after considering the contentions taken in Ext.P1, within a period of six weeks from the date of receipt of a certified copy of this judgment. I make it clear that it is open to the petitioner to take all contentions before the competent authority and all legal issues raised in the writ petition are left open for consideration at a later stage, if necessary.

Sd/- GOPINATH P. JUDGE DK APPENDIX OF WP(C) 3675/2023 PETITIONER EXHIBITS Exhibit-P1 TRUE COPY OF THE THE PETITIONER'S REPRESENTATION TO THE 2ND RESPONDENT DATED 3-12-2022

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com