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

indu Kumar and anr. Vs Cbi

indu Kumar and anr. Vs Cbi

SooperKanoon Citation : sooperkanoon.com/904509

Court : Delhi

Decided On : Aug-12-2010

Judge : Mr. Shiv Narayan Dhingra, J.

Appeal No. : CRL.M.C. 10/2010 , Crl.M.A.Nos. 1077/2010 & 2680/2010

Appellant : indu Kumar and anr.

Respondent : Cbi

Advocate for Def. : Mr. Harish Gulati, Mr. Anindya Malhotra, Advs.

Advocate for Pet/Ap. : Mr. Shyam Moorjani, Mr. Sanjeev Kumar, Ms. Indu Kumar. Advs.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the reporter or not?

3. Whether judgment should be reported in Digest?

1. This petition has been filed by the petitioner assailing order of learned Special Judge dated 11th July, 2009, whereby the learned Special Judge dismissed an application of the petitioner for release of original title deed of property and the photocopies of documents ceased by CBI in investigation of RC No. ACU IX/CBI/2008/04.

2. The applicant is a company engaged in sale and purchase of immovable properties. The accused in this case was booked for accumulating huge assets disproportionate to his income and it was found by CBI that the accused was using the name of this company to invest ill-gotten money. The company was being run by the wife of accused. Documents showing investments by the company, sources of income of the company and other features of the company were seized by the CBI and it was found by CBI that the company was existing only on papers with fictitious shareholders whose addresses were false.

3. It was submitted by the respondent that earlier also photocopies of some shares were supplied to the applicant and the applicant, on the basis of those photocopies, sold the shares to third parties. Learned Special Judge observed that since the investigation was in respect of disproportionate assets and the company was being used just to invest the ill-gotten money, it would not be appropriate to release the photocopies of documents and dismissed the application.

4. The investigation done by CBI has revealed that the company in question was existing on papers only. It was being run by the wife of accused and it was being used as a front for investment of ill-gotten money of her husband. The documents pertaining to various transactions of the company were seized by the CBI in order to establish the case of disproportionate assets against the accused. In these circumstances, I consider that if photocopies of documents are supplied to the applicant/company, there is every possibility that company may try to create some further evidence or may try to destroy some evidence. The original title deed seized by the CBI also cannot be released in favour of the company for the said reason. It is settled law that the Court in appropriate case can pierce the veil of the company and can rule that the company has to be identified with the shareholders and Directors. Since in this case some shareholders of the company have been found fictitious and the company was being run by the wife of accused, I consider that the Court can ignore the existence of the company for the time being till the investigation is complete.

5. I, therefore, find no force in this petition. The petition is hereby dismissed.

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