

S. No. 73
Before Notice Matters

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 6051/2022
In FAO(OS) No. 01/2022
CM No. 6052/2022
CM No. 6056/2022

Syed Adeel Shah

.....Appellants(s)

Through: Mr. Salih Pirzada, Adv.

V/s

Directorate of Enforcement through its Director and anr. Respondent(s)

Through: Mr. T. M. Shamsi, DSGI
with Ms. Nazima, Adv.

CORAM:

Hon'ble Mr. Justice Sanjay Dhar, Judge.
Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge

ORDER
29.10.2022

CM No. 6051/2022:

For the reasons stated in the application, the same is allowed and the requirement of filing certified copy judgment dated 18.10.2022, for the time being is dispensed with. However, the appellant shall file the same as and when the same becomes available to him.

CMs disposed of.

FAO(OS) No. 01/2022:

- 1) The appellant has called into question the order dated 27.10.2022 passed by Appellate Tribunal PMLA, New Delhi in case titled Syed Adeel Shah Vs. Directorate of Enforcement and anr (FPA-PMLA

- 4990/JM/2022) whereby the learned Tribunal has observed that it is not inclined to hear the appeals urgently, wherafter the case has been posted before the appropriate Bench on 02.11.2022
- 2) It has been contended by learned counsel for the appellant that this Court while deciding the LPA against the judgments dated 18.10.2022 passed in writ petition bearing WP(C) Nos. 2269/2022 and 2270/2022 has vide judgment dated 20.10.2022 passed in LPA No. 203/2022 and LPA No. 204/2022 observed that the apprehension of the appellant relating to immediate action against them by the respondents is borne out from the record. But inspite of this, the learned Tribunal has declined to hear the appeals urgently.
- 3) We have heard learned counsel for the appellant and perused the material on record.
- 4) It appears that in an earlier round of litigation wherein the appellants had challenged the notice issued by the respondents under Section 8(4) of the PMLA Act, learned writ court had declined to grant indulgence in favour of the appellants and the writ petition came to be dismissed vide judgment and order dated 18.10.2022 passed in WP(C) No. 2270/2022. The said judgment was challenged by the appellant by way of LPA before this Court and the same was also dismissed by a Division Bench of this Court by observing that the appellants cannot bypass the remedy of appeal by invoking writ jurisdiction of this Court simply by laying challenge to the proceedings which are

essentially offshoot of the order passed by the Adjudicating Authority which is appealable under Section 26 of the PMLA Act. It was further observed that if at all the appellants apprehend immediate action against them by the respondents, which apprehension is borne out from the record, it is open to them to immediately approach the Appellate Authority and persuade the said Authority to stay the impugned order of attachment. It seems that at the time when the appeal was heard by the Appellate Tribunal, the aforesaid judgment of the Division Bench was not brought to the notice of the learned Tribunal by the appellants. This is clear from a perusal of the impugned order.

- 5) In the above circumstances, this appeal is disposed of with a direction to the Appellate Tribunal to hear the application of the appellants for staying the order of Adjudicating Authority urgently in light of observations made by Division Bench of this Court in the aforesaid judgment. The learned Tribunal would do well to accord consideration to the prayer of the appellant on next date of hearing itself i.e, on 02.11.2022.

(Wasim Sadiq Nargal)
Judge

(Sanjay Dhar)
Judge

SRINAGAR
29.10.2022
"Aasif"