



WA Nos.1429/2025, 1310/2025,
1426/2025, 1428/2025

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2025:KER:49804

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

TUESDAY, THE 8TH DAY OF JULY 2025 / 17TH ASHADHA, 1947

WA NO. 1429 OF 2025

AGAINST THE JUDGMENT DATED 09.05.2025 IN WP(Cr1.) NO.731 OF
2024 OF THE HIGH COURT OF KERALA

APPELLANT/PETITIONER:

- 1 VIPUL SHIPPING ENGINEERING WORKS
HAVING ITS REGISTERED ADDRESS AT: SECOND FLOOR, QUADROS
BUILDING, SWATANTRAPTH, VASCO DA GAMA, GOA. REPRESENTED
BY ITS PARTNER, KUSUMBEN VISHNUBHAI AMIN REPRESENTED BY
HER POWER OF ATTORNEY HOLDER MR. SUDESH PANICKER, S/O.
LATE NARAYAN PANICKER, RESIDING AT H.NO. PHASE 1B 418,
SUSHEELA SEAWINDS, VANDEM, MORMUGAO, SOUTH GOA.,
PIN - 403802
- 2 KUSUMBEN VISHNUBHAI AMIN
AGED 92 YEARS
MIRATON GARDEN, CHICALIM, MORMUGAO, GOA. REPRESENTED BY
HER POWER OF ATTORNEY HOLDER MR. SUDESH PANICKER, S/O.
LATE NARAYAN PANICKER, RESIDING AT H.NO. PHASE 1B 418,
SUSHEELA SEAWINDS, VANDEM, MORMUGAO, SOUTH GOA.,
PIN - 403802

BY ADVS.
SHRI.PAUL JACOB
SMT.SHERU JOSEPH
SHRI.MATHEW THOMAS
SMT.NIKITTA TRESSY GEORGE



WA Nos.1429/2025, 1310/2025,
1426/2025, 1428/2025

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SHRI.DIPAK CHERIAN ABRAHAM

RESPONDENT/RESPONDENTS:

- 1 DIRECTORATE OF ENFORCEMENT
 PRAVARTAN BHAWAN, APJ ABDUL KALAM ROAD,
 NEW DELHI - 110 011.
 REPRESENTED BY ITS DIRECTOR OF ENFORCEMENT.

- 2 ASSISTANT DIRECTOR
 DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE, KANOOS
 CASTLE, MULLASSERRY CANAL ROAD WEST, COCHIN., PIN -
 682011

- 3 DEPUTY DIRECTOR
 DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE,
 KANOOS CASTLE, MULLASSERRY CANAL ROAD WEST, COCHIN,
 PIN - 682011

- 4 THE ADJUDICATING AUTHORITY, (UNDER THE PREVENTION OF
 MONEY LAUNDERING ACT)
 4TH FLOOR, JEEVAN DEEP BUILDING, PARLIAMENT STREET, NEW
 DELHI. REPRESENTED BY ITS CHAIRPERSON, PIN - 110001

BY ADV SHRI.JAISHANKAR V.NAIR, SC, ENFORCEMENT
DIRECTORATE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08.07.2025,
ALONG WITH WA.1310/2025, 1426/2025 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WA Nos.1429/2025, 1310/2025,
1426/2025, 1428/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

TUESDAY, THE 8TH DAY OF JULY 2025 / 17TH ASHADHA, 1947

WA NO. 1310 OF 2025

AGAINST THE JUDGMENT DATED 09.05.2025 IN WP(Cr1.) NO.595 OF
2024 OF THE HIGH COURT OF KERALA

APPELLANT/PETITIONER:

MOHAN RAO
AGED 75 YEARS
S/O. LATE GOVINDA RAO, RESIDING AT 2ND FLOOR,
PARK VIEW APARTMENT, PLOT NO 36 HUDA HEIGHTS,
BANJARA HILLS ROAD NO 12, HYDERABAD., PIN - 500034

BY ADVS.
SHRI.PAUL JACOB
SMT.SHERU JOSEPH
SHRI.MATHEW THOMAS
SMT.NIKITTA TRESSY GEORGE
SHRI.DIPAK CHERIAN ABRAHAM

RESPONDENTS/RESPONDENTS:

1 DIRECTORATE OF ENFORCEMENT
 PRAVARTAN BHAWAN, APJ ABDUL KALAM ROAD NEW DELHI.
 REPRESENTED BY ITS DIRECTOR OF ENFORCEMENT,
 PIN - 110011



WA Nos.1429/2025, 1310/2025,
1426/2025, 1428/2025

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- 2 ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE,
KANOOS CASTLE, MULLASSERRY CANAL ROAD WEST,
COCHIN, PIN - 682011
- 3 DEPUTY DIRECTOR
DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE,
KANOOS CASTLE, MULLASSERRY CANAL ROAD WEST,
COCHIN, PIN - 682011
- 4 THE ADJUDICATING AUTHORITY, (UNDER THE PREVENTION OF
MONEY LAUNDERING ACT)
4TH FLOOR, JEEVAN DEEP BUILDING, PARLIAMENT STREET,
NEW DELHI. REPRESENTED BY ITS CHAIRPERSON, PIN - 110001

BY ADV SHRI.JAISHANKAR V.NAIR, SC, ENFORCEMENT
DIRECTORATE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
08.07.2025, ALONG WITH WA.1429/2025 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WA Nos.1429/2025, 1310/2025,
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

TUESDAY, THE 8TH DAY OF JULY 2025 / 17TH ASHADHA, 1947

WA NO. 1426 OF 2025

AGAINST THE JUDGMENT DATED 09.05.2025 IN WP(Cr1.) NO.601 OF
2024 OF THE HIGH COURT OF KERALA

APPELLANT/PETITIONER:

DINESH PARSHURAM AMIN
AGED 51 YEARS
S/O. PARSHURAM M. AMIN, RESIDING AT: M-19, SOMESHWARA
ENCLAVE, NEAR SOUTH GUJARAT UNIVERSITY, VESU, SURAT,
PIN - 395007

BY ADVS.
SHRI.PAUL JACOB
SMT.SHERU JOSEPH
SHRI.MATHEW THOMAS
SMT.NIKITTA TRESSY GEORGE
SHRI.DIPAK CHERIAN ABRAHAM

RESPONDENTS/RESPONDENTS:

1 DIRECTORATE OF ENFORCEMENT
PRAVARTAN BHAWAN, APJ ABDUL KALAM ROAD, NEW DELHI,
PIN - 110011



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- 2 ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE,
KANOOS CASTLE, MULLASSERRY CANAL ROAD WEST,
COCHIN, PIN - 682011
- 3 DEPUTY DIRECTOR
DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE, KANOOS
CASTLE, MULLASSERRY CANAL ROAD WEST, COCHIN,
PIN - 682011
- 4 THE ADJUDICATING AUTHORITY (UNDER THE PREVENTION OF
MONEY LAUNDERING ACT)
4TH FLOOR, JEEVAN DEEP BUILDING, PARLIAMENT STREET, NEW
DELHI, REPRESENTED BY ITS CHAIRPERSON., PIN - 110001

BY ADV SHRI.JAISHANKAR V.NAIR, SC, ENFORCEMENT
DIRECTORATE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08.07.2025,
ALONG WITH WA.1429/2025 AND CONNECTED CASES, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



WA Nos.1429/2025, 1310/2025,
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

TUESDAY, THE 8TH DAY OF JULY 2025 / 17TH ASHADHA, 1947

WA NO. 1428 OF 2025

AGAINST THE JUDGMENT DATED 09.05.2025 IN WP(Cr1.) NO.721 OF
2024 OF THE HIGH COURT OF KERALA

APPELLANT/PETITIONER:

VIPUL SHIPYARD PVT. LTD.
HAVING ITS REGISTERED ADDRESS AT: QUADROS BUILDINGS,
2ND FLOOR, VASCO DA GAMA, SOUTH GOA, GOA - 403802.
REPRESENTED BY ITS DIRECTOR, KUSUMBEN VISHNUBHAI AMIN,
REPRESENTED BY HER POWER OF ATTORNEY HOLDER MR. SUDESH
PANICKER, S/O. LATE NARAYAN PANICKER, RESIDING AT H.NO.
PHASE 1B 418, SUSHEELA SEAWINDS, VANDER, MORMUGAO,
SOUTH GOA- 403802

BY ADVS.
SHRI.PAUL JACOB
SMT.SHERU JOSEPH
SHRI.MATHEW THOMAS
SMT.NIKITTA TRESSY GEORGE
SHRI.DIPAK CHERIAN ABRAHAM

RESPONDENTS/RESPONDENTS:

1 DIRECTORATE OF ENFORCEMENT
PRAVARTAN BHAWAN, APJ ABDUL KALAM ROAD
NEW DELHI - 110 011.



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REPRESENTED BY ITS DIRECTOR OF ENFORCEMENT.

- 2 ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE, KANOOS
CASTLE, MULLASSERRY CANAL ROAD WEST, COCHIN,
PIN - 682011
- 3 DEPUTY DIRECTOR
DIRECTORATE OF ENFORCEMENT, KOCHI ZONAL OFFICE, KANOOS
CASTLE, MULLASSERRY CANAL ROAD WEST, COCHIN,
PIN - 682011
- 4 THE ADJUDICATING AUTHORITY, (UNDER THE PREVENTION OF
MONEY LAUNDERING ACT)
4TH FLOOR, JEEVAN DEEP BUILDING, PARLIAMENT STREET, NEW
DELHI REPRESENTED BY ITS CHAIRPERSON., PIN - 110001

BY ADV SHRI.JAISHANKAR V.NAIR, SC, ENFORCEMENT
DIRECTORATE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
08.07.2025, ALONG WITH WA.1429/2025 AND CONNECTED CASES, THE
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J U D G M E N T

[WA Nos.1429/2025, 1310/2025, 1426/2025, 1428/2025]

Raja Vijayaraghavan, J.

These appeals have been preferred challenging the common judgment rendered by the learned Single Judge in W.P. (Crl.) Nos. 595 of 2024, 601 of 2024, 731 of 2024, and 721 of 2024, whereby the said Writ Petitions were dismissed as non-maintainable on the ground that the petitioners had failed to exhaust the statutory remedies available under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "the Act"). However, liberty was reserved to the appellants/petitioners to challenge the impugned orders before the appropriate statutory authorities, and such authorities were directed to consider the objections and claims raised by the petitioners, untrammelled by the observations made in the impugned judgment. Being aggrieved these appeals have been preferred.

2. The case of the appellants as projected in the Writ Petition are as under:

2.1. The Union Territory of Lakshadweep Administration (UTLA), headed by its Administrator, is entrusted with the procurement and construction of water vessels for the use of the UTLA. Landing barges are essential for the transportation of passengers and cargo between the Lakshadweep Islands and the mainland.



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2.2. In 2006, the Ministry of Shipping, Government of India, accorded sanction to the UTLA for the acquisition of two landing barges through an open tender process. Pursuant thereto, the Shipping Corporation of India floated Tender No. T&S/NB/UTLA/2000PAS/LB/2006 dated 04.04.2006, on behalf of UTLA, inviting bids from experienced shipyards for the construction of six 200-PAX Passenger Landing Barges.

2.3. Four firms submitted bids in response. One of the firms shortlisted was Vipul Shipyard Pvt. Ltd. ('VSPL' for the sake of brevity), a family-owned Private Limited Company, having its shipyard at Vasco Da Gama.

2.4. The petitioner in W.P.(CrI.) No. 721 of 24 is VSPL, the petitioner in W.P.(CrI) No. 601 of 2024 is Sri. Dinesh Parshuram Amin, who was a non-participating Director, and the petitioner in W.P.(CrI.) No. 595 of 2024 is Sri. Mohan Rao, who was the non-participating CEO of VSPL. After technical scrutiny, two were shortlisted, and M/s. VSPL was identified as L1. However, the construction agreement with M/s. VSPL, Surat, was not executed until 20.10.2007.

2.5. VSPL has a sister concern by name 'Vipul Shipping Engineering Works' ('VSEW' for the sake of brevity), a partnership concern, which is the petitioner in W.P.(CrI) No. 731 of 24 and the 2nd petitioner in the above Writ Petition is Kusumben Vishnubhai Amin, a partner of the above concern.



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2.6. In July 2007, M/s. VSPL informed the Shipping Corporation of India that their Surat yard was being taken over by ABG Shipyard Pvt. Ltd., but assured that the contract could be fulfilled using their Goa yard. The acquisition process was completed in August 2007, and the VSPL Surat yard was officially taken over by ABG Shipyard. Construction of the vessels commenced, and payments were released in instalments.

2.7. In 2010, a team of UTLA officials inspected the vessels under construction at VSPL, Goa, and found the dimensions to be inconsistent with the requirement of UTLA.

2.8. Based on a letter received from Sri. Vadodaria Karanjeet, Director of the Lakshadweep Administration, the CBI, ACB, Cochin, registered Preliminary Enquiry No.2/2014 dated 17.10.2014. The letter alleged criminal negligence, malpractices, and corruption involving officials of the Lakshadweep Administration, the Shipping Corporation of India Ltd. (SCIL), and M/s. VSPL, in relation to the construction of the two landing barges.

2.9. Pursuant to the enquiry, the CBI registered an FIR alleging offences under Sections 120B, 420, and 471 of the IPC, and Section 13(2) r/w. Section 13(1)(d) of the Prevention of Corruption Act, 1988.

2.10. An Enforcement Case Information Report (ECIR) No. ECIR/KCZO/04/2021 was subsequently recorded for investigation under the Act. Upon completion of the investigation, the CBI filed the final report.



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2.11. The final report was challenged before this Court by filing Crl. M.C. No.3306 of 2017, and by order dated 19.05.2017, the proceedings were stayed. The petition is still pending.

2.12. The investigation under the Act is alleged to have revealed that the accused, by the commission of scheduled and related offences, had derived proceeds of crime in the form of immovable properties (lands, houses, etc.) and movable properties (barges, bank balances, securities, deposits, etc.).

2.13. While so, on 03.04.2024, the Assistant Director, Director of Enforcement, issued notices exercising powers under Section 54 of the Act to the Nodal Officers of the Axis Bank, Union Bank, Andhra Bank (Union Bank), Bank of Baroda, Standard Chartered Bank, State Bank of India, the Surat Peoples Cooperative Bank Ltd, and HSBC and calling for information and statements of all accounts relating to individuals for the purpose of investigation in the case of VSPL and more importantly, the above Banks were directed not to allow any debit transactions from the said account without prior intimation in writing of the Assistant Director.

2.14. Immediately thereafter, the Deputy Director, competent authority in the Enforcement Directorate, initiated proceedings under Section 5 of the Act r/w. Rule 3 of the Prevention of Money-Laundering (Issuance of Provisional Attachment Order) Rules,



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2013. Vide order dated 10.05.2024 (Ext. P14), the Deputy Director, Enforcement Directorate, provisionally attached the properties belonging to the appellants.

2.15. The aforesaid proceedings were under challenge in the Writ Petitions.

3. The appellants raised various contentions before the learned Single Judge. It was contended that there was an arbitration agreement and in tune with the same, VSPL had initiated arbitration proceedings. The dispute was adjudicated and an award had been passed as per which, a sum in excess of Rs.13 Crores is due to VSPL. In that view of the matter, initiation of proceedings under the PMLA is a malicious exercise. As the predicate offences/scheduled offences stood stayed by this Court, the respondents were not justified in proceeding against the shipping company and its officers under the PMLA.

4. The learned Single Judge after evaluation of the entire facts and relying on the observations in **Titaghur Paper Mills Co. Ltd. v. State of Orissa**¹, and **Radha Krishnan Industries v State of H.P.**², held that where the PMLA is a self-contained code providing statutory remedies at every stage of the proceedings, this Court will not be justified in short circuiting the procedure. The parties were relegated to the remedies under the Code.

¹ [(1983) 2 SCC 433]

² [(2021) 6 SCC 771]



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5. We have had the advantage of hearing Sri. Paul Jacob, the learned counsel appearing for the appellants and Sri.Jaishankar V. Nair, the learned counsel appearing for the respondents.

6. Having considered the submissions and after perusal of the entire records, we are of the considered view that the challenge mounted by the appellants against the provisional order of attachment was rightly rejected by the learned Single Judge. We shall record our reasons for the same.

7. A perusal of the statutory framework reveals that Chapter III of the Prevention of Money Laundering Act, 2002 deals with attachment, adjudication, and confiscation of property. An order passed under Section 5(1) of the Act is merely provisional in nature, and its validity extends only for a period of 180 days, subject to confirmation by an independent Adjudicating Authority. Under Section 5(2), the officer issuing the provisional attachment order is mandated to forward a copy of the same to the Adjudicating Authority in a sealed envelope. Sub-section (5) of Section 5 requires that a complaint be filed by the said officer before the Adjudicating Authority within 30 days of the order. The said exercise has in fact been carried out in the instant case. As per Section 8(1) of the Act, upon receipt of the complaint, if the Adjudicating Authority has reason to believe that any person has committed an offence under Section 3 or is in possession of proceeds of crime, it may issue a show cause notice to such person. The notice shall call upon the noticee to disclose the sources of his income, earnings, or



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assets through which the property under provisional attachment was acquired, and to produce supporting evidence, relevant particulars, and information, demonstrating why such property should not be declared as involved in money laundering and consequently confiscated by the Central Government. Section 8(2) further mandates the Adjudicating Authority to consider the reply submitted by the noticee, provide an opportunity of hearing to both the noticee and the officer issuing the provisional attachment, and take into account all materials on record before arriving at a conclusion. Upon due consideration, the Adjudicating Authority may record its findings on whether all or any of the properties mentioned in the notice are involved in money laundering. The Authority may either confirm or decline to confirm the provisional attachment order accordingly. Under Section 8(4), upon confirmation of the provisional attachment, the authorised officer shall take possession of the attached property. Under Section 8(5), upon conclusion of the trial, if the Special Court finds that the offence of money laundering has been committed, it shall order that the property involved in such offence shall stand confiscated to the Central Government. Conversely, under Section 8(6), if the Court finds that no offence of money laundering has taken place, or that the property is not involved in money laundering, it shall order release of the property. The legislature has ensured that the order of the Adjudicating Authority is not final. It is appealable under Section 26(1) of the Act before the Appellate Tribunal constituted under Section 25 of the Act. Furthermore, the order of the Appellate Tribunal is itself



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subject to further appeal before the High Court under Section 42 on any question of law or fact arising therefrom.

8. In **Vijay Madanlal Choudhary v. Union of India**³, the Apex Court has held that Section 5 of the Act provides a balancing arrangement to secure the interest of the person as well as to ensure that the proceeds of crime remain available for being dealt with in the manner provided by the Act. This provision has a reasonable nexus with the objectives sought to be achieved by the Act, namely, the effective prevention and regulation of money laundering.

9. As rightly held by the learned Single Judge, the Act provides an efficacious alternative remedy through a tiered appellate mechanism, including a second appeal and further recourse to the High Court. It is well-settled that the extraordinary writ jurisdiction under Article 226 of the Constitution of India is not to be invoked to circumvent or short-circuit statutory procedures, save in exceptional and extraordinary circumstances where statutory remedies are wholly inadequate or ill-suited to address the grievance, and even then, only for compelling reasons. If any precedents are required, one only needs to refer to the judgment of the Apex Court in **Special Director and Another v. Mohammad Ghulam Ghouse**⁴, wherein despite the existence of alternate remedies under Foreign Exchange Regulation Act (FERA), 1973

³ [(2023) 12 SCC 1]

⁴ [(2004) 3 SCC 440]



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and Foreign Exchange Management Act (FEMA), 1999, it was observed by the Apex Court as under:

“This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show-cause notice was totally non est in the eye of the law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show-cause notice and take all stands highlighted in the writ petition. Whether the show-cause notice was founded on any legal premises, is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the court. Further, when the court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is not accorded to the writ petitioner even at the threshold by the interim protection granted”

In view of the above principles of law, we have no doubt in our mind that the learned Single Judge was justified in refusing interference.



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10. However, one of the contentions advanced by the learned counsel deserves consideration. It is pointed out by the learned counsel that the notices issued by the Assistant Director under Section 54 of the PMLA prior to the issuance of the order of provisional attachment has resulted in serious prejudice. It is submitted that Section 54 only enables the officers mentioned therein to assist the authorities in the enforcement of this Act. However, in the instant case, interdictory orders have been issued by the Assistant Director prior to the issuance of the provisional attachment order by the Deputy Director. The Banks have now restrained the appellants from operating their accounts or from carrying out transactions. It is submitted that the Assistant Director is not vested with any such powers and Section 54 of the Act will not empower any of the officers to pass any interdictory order or impose restrictions on bank transactions. It is further submitted that when an order of provisional attachment is made under Section 5 of the Act in respect of the property involved in money laundering, any interdictory orders passed by an officer who is not empowered will not have any binding effect over the property of the individual.

11. Having considered the submissions, we find that the submission deserves merit. Section 54 of the Act empowers certain officers to assist in inquiry, etc. The officers of various Government Departments have been included in Section 54 of the Act.

12. In the case on hand, it is in purported exercise of powers under Section 54 of the Act that the Assistant Director has issued a notice dated 03.04.2024 (for



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instance Ext.P11 in W.P.(Crl) No.1310 of 2024) to various banks, the relevant portion of which reads as under:

" This office is conducting an investigation in the case M/s. Vipul Shipyard Pvt. Ltd., in file No. ECIR/KCZO/04/2021.

In this connection, it is requested that the following documents may be furnished to this office by return of mail today i.e., 30.04.2024. Hard copy of the same should reach this office within 2 (two) days from the date of receipt of this letter certifying u/s. 2A of Bankers Book Evidence Act, 1981.

Bank Account Statements of all accounts maintained (including closed) by the following persons/entities starting from opening of accounts to till date in MS Excel only in the proforma attached alongwith closing balance as of today 03.04.2024. You are further directed that any debit transaction from the said account should not be allowed without prior intimation in writing of the undersigned."
(emphasis supplied by us)

Practically, by issuing the above notice, the banks are interdicted from permitting the appellants from operating the accounts without prior intimation to the department.

13. It needs to be noted at this juncture that it is pursuant to the issuance of the above notice that a provisional order of attachment was passed under sub section (1) of Section 5 of PMLA, 2002. In all the notices, as required under the provisions of law, the properties in respect of which provisional attachment has been ordered has been enumerated as a table in the body of the provisional attachment order. The



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moment the order under Section 5 (1) of the Act is issued, the earlier notice issued by the Assistant Director purportedly under Section 54 of the Act will not have any effect over the properties not included in the table attached to the provisional attachment order.

14. Furthermore, the provisional attachment of property involved in money laundering can be effected only by the officers specifically empowered under Section 5 of the Prevention of Money Laundering Act, 2002. This statutory insistence serves a salutary purpose, as laid down by the Hon'ble Supreme Court in **Vijay Madanlal Choudhary** (supra). In matters relating to search and seizure under the 2002 Act, such powers can be exercised only by the Director or by an officer not below the rank of Deputy Director duly authorised by him. These officers are not only high-ranking but are also required to be fully satisfied, on the basis of information in their possession, that there exists reason to believe in the commission of the offence of money laundering or that certain property constitutes proceeds of crime. These requirements form part of the inbuilt safeguards under the Act. It has also been held that only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence, qualifies as "proceeds of crime." The authority of an authorised officer under the 2002 Act to initiate prosecution for the offence of money laundering is triggered only when the property in question satisfies the definition under Section 2(1)(u), and is involved in any process or activity connected with the offence. Mere existence of undisclosed income, regardless of its magnitude, will not



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attract the definition of “proceeds of crime” unless it has a nexus with criminal activity relating to a scheduled offence.

15. In that view of the matter, any action taken by the Assistant Director under Section 54 of the Act will have no legal effect once a provisional attachment order is duly made in respect of properties that qualify as “proceeds of crime.” With respect to properties included in such an order, the appellants are at liberty to raise all their contentions before the Adjudicating Authority and other forums provided under the Act, and to exhaust their remedies in accordance with law. We find that by an interim order dated 04.07.2024 passed by the learned Single Judge, the proceedings before the adjudicating authority were stayed. In that view of the matter, 30 days time granted by the adjudicating authority under Section 8(1) of the Act to file a reply shall start to run only from today; i.e., on 08.07.2024. If reply is filed within such time as ordered, the adjudicating authority shall consider the same and pass orders in accordance with law.

16. In light of the above, these appeals stand dismissed, granting liberty to the appellants to pursue their contentions in terms of the statutory scheme. The second respondent is directed to forthwith issue a clarification to the concerned banks against which interdictory directions were earlier issued by the Assistant Director (Ext. P11 in the writ petitions) stating that the enforcement authorities have no objection to the appellants operating their respective bank accounts, except in respect of amounts or



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properties that are specifically covered by the provisional attachment order under Section 5(1) and the complaint filed under Section 5(5) of the Act.

Sd/-

**RAJA VIJAYARAGHAVAN V,
JUDGE**

Sd/-

**K.V.JAYAKUMAR,
JUDGE**

P/S/2/7/2025