

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 6072 of 2017

M/s. V. Krishnakant ... Appellant (s)

VERSUS

A.K. Menon
The Custodian & Ors. ...Respondent(s)

W I T H

Civil Appeal No. 6076 of 2017

M/s. Suresh N. Shah ... Appellant(s)

VERSUS

A.K. Menon
The Custodian ...Respondent(s)

O R D E R

These Appeals are filed against the order dated 11.08.2016 passed in Review Petition Nos.2 and 3 of 2016 by the Special Court constituted under the Special Court (Trial of Offences relating to Transactions in Securities) Act, 1992. By the aforesaid order, the Special Court recalled the order dated 11.12.2015 passed in Miscellaneous Petition Nos.3 and 4. Thereby, the Review Petitions were allowed.

Though, a common order was passed in Review Petitions Nos. 1,2 and 3, we are concerned with Review Petitions Nos.2 and 3 of 2016 in the above Appeals.

Miscellaneous Petition No.3 of 1996 filed by the Custodian for recovery of an amount of Rs.2,28,58,274/- along with interest at the rate of 24% per annum from 05.08.1992 from

the Appellant in Civil Appeal No.6072 of 2017. The Appellant contended before the Special Court that he has returned the amount in cash to Suresh Jajoo, Respondent No.4-therein. Accepting the contention of the Appellant, the Special Court dismissed the Miscellaneous Petition filed by the Custodian reserving the right of the Custodian to recover the aforementioned amount in accordance with law.

The Custodian filed Miscellaneous Petition No.4 of 1996 for recovery of an amount of Rs.58,94,120/- with interest at the rate of 24% per annum from 05.08.1992 from the Appellant in Civil Appeal No.6076 of 2017. Miscellaneous Petition No.4 of 1996 was dismissed by the Special Court by holding that the Appellant established his case of repayment of the amount of Rs.58,94,120/- to Respondent No.4- Suresh Jajoo.

Aggrieved by the orders passed by the Special Court dated 11.12.2015 in Miscellaneous Petition No.3 of 1996 and Miscellaneous Petition No.4 of 1996, Suresh Jajoo filed Review Petitions. The Review Petitions were allowed by a cryptic order without assigning any reasons. Thereafter, the Appellants filed miscellaneous applications in the Review Petitions which were disposed of by the Special Court on 13.01.2017 in which it was mentioned that there were certain errors. It was further observed in the orders dated 13.01.2017 that certain statements which were found in the earlier order were also incorrect. On the basis of such finding, the Special Court refused to entertain the Miscellaneous Applications filed

by the Appellants. The Miscellaneous Applications were dismissed.

The learned Senior Counsel appearing for the Appellants submitted that the impugned Review Petitions are vitiated as they are not supported by any reasons.

The learned counsel appearing for the Custodian submitted that the Appellants filed Miscellaneous Applications for recall of the order passed in the Review Petitions which were dismissed wherein reasons were recorded. Hence, the above Appeals should not be entertained as reasons are forthcoming from the orders passed by the Special Court in the Miscellaneous Petitions.

The learned counsel appearing for Respondent No.2 Suresh Jajoo referred to the findings in the order dated 11.12.2015 to submit that this matter has been pending since 1996 and any remand of the Review Petitions to the Special Court would further delay the hearing of the matter.

The applications filed for recall of the order passed in Review Petitions were not maintainable and ought not to have been entertained. We are not in agreement with the learned counsel for the Custodian that we should not entertain these Appeals in view of the order passed by the Special Court in the applications filed for recall of the order dated 11.08.2016 in the Review Petitions.

We are of the considered opinion that the Special Court ought to have recorded reasons in the orders dated 11.12.2015. Without expressing any opinion on the merits, we set aside the orders passed by the trial court in Review Petitions Nos.2 and 3 and remit them back to the Special Court to decide them afresh.

These appeals are allowed.

.....J.
[L. NAGESWARA RAO]

.....J.
[HEMANT GUPTA]

NEW DELHI;
July 12, 2019.

ITEM NO.40

COURT NO.12

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 3/2017,4/2017, in Civil Appeal No(s). 6072/2017

M/S V. KRISHNAKANT

Appellant(s)

VERSUS

A.K. MENON THE CUSTODIAN & ORS.

Respondent(s)

FOR STAY APPLICATION ON IA 4/2017

IA No. 3/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 4/2017 - STAY APPLICATION)

WITH

C.A. No. 6076/2017 (XVII)

(

FOR STAY APPLICATION ON IA 4/2017

IA No. 3/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 4/2017 - STAY APPLICATION)

Date : 12-07-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO

HON'BLE MR. JUSTICE HEMANT GUPTA

For Appellant(s)

Mr. Huzefa Ahamadi, Sr. Adv.

Mr. Mahesh Agarwal, Adv.

Ms. Parul Shukla, Adv.

Mr. Abhinav Agrawal, Adv.

Mr. E. C. Agrawala, AOR

Mr. Neha Agrawal, Adv.

For Respondent(s)

Mr. Arvind Kumar Tewari, AOR

Mr. Abhishek Tewari, Adv.

Mr. Tushar Upreti, Adv.

Mr. Gaurab Banerji, Sr. Adv.

M/S. S.M. Jadhav And Company, AOR

Mr. Raka Chatterjee, Adv.

Mr. Gaurav Agrawal, Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr. Brij Kishor Shah, Adv.

Mr. Qurratulain, Adv.

Mr. Nicholas Choudhury, Adv.

Mr. Gautam T. Mehta, Adv.

Mr. Virendra Pereira, Adv.
Mr. Aziz Khan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.

(KAVITA PAHUJA)
COURT MASTER (SH)

(SUNIL KUMAR RAJVANSHI)
BRANCH OFFICER

[Signed order is placed on the file]