

Mon Mohan Kohli vs Commissioner Of Income Tax & Anr on 19 January, 2021

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 11907/2016

MON MOHAN KOHLI

..... Petitioner

Through: Mr. Sanjeev Mahajan, Advocate.

versus

COMMISSIONER OF INCOME TAX & ANR. Respondents

Through: Ms. Vibhooti Malhotra, Senior

Standing Counsel.

Ms. Monika Ghai, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 19.01.2021

[VIA VIDEO CONFERENCING]

1. This petition was filed, i) impugning the proceedings under Section 142(1) of the Income Tax Act, 1961 and in pursuance to which, notice dated 2nd December, 2016 was issued by the respondent No. 1, and seeking stay of the said proceedings till the appointment of a guardian of the person and properties of the petitioner; ii) to restrain the respondent No. 1 from proceeding against the petitioner till the petitioner recovers from the brain stroke and was able to look after his own affairs; iii) seeking direction to respondent No. 2 Mr. Jitender Malik to furnish all records of income and investments of the petitioner for the preceding twenty years as well as the income tax returns and supporting documents from the assessment year 2008-09 till the assessment year 2014-15; and iv) seeking permission to allow Mr. Rishab Kohli, son of the petitioner, to appoint any professional agency to prepare books of accounts/records of the petitioner and to approach various banks and companies in which the petitioner had accounts and investment and to seek the requisite information.

2. One of us (Rajiv Sahai Endlaw, J.) has had occasion to deal with the civil disputes concerning the petitioner, on the original side of this Court and has disposed of the said suits vide Natasha Kohli Vs. Mon Mohan Kohli MANU/DE/0565/2020.

3. The respondent No. 2 in person, the counsel for the respondent No. 1 and Ms. Monika Ghai, Advocate for Dr. Rakesh Gupta appear.

4. The counsel for the petitioner states that with the appointment of Mr. Rishab Kohli as a guardian of the business affairs of the petitioner vide Natasha Kohli supra, albeit certain conditions, this petition can be disposed of i) with direction to respondent No. 2 Mr. Jitender Malik to provide the password allocated to the petitioner for accessing the Income Tax website;

ii) continuing with Dr. Rakesh Gupta, Advocate, appointed vide orders of this Court to perform the tasks which have been assigned to him under the orders passed from time to time; and iii) permitting Mr. Rishab Kohli to deal with the taxation affairs of the petitioner.

5. As far as I recollect, vide Natasha Kohli supra, Mr. Rishab Kohli has already been authorized and is entitled to deal with the business and financial affairs of the petitioner and which would include taxation affairs; be that as it may, with the said clarification, the relief No. iii) aforesaid does not survive.

6. As far as the relief of, direction to respondent No. 2 Mr. Jitender Malik is concerned, Mr. Jitender Malik appearing in person states that he has not used the password for over five years but has no objection to attempt accessing the Income Tax website through the password with him, if still active and continues to be the same; he otherwise states that he has not been dealing with the taxation affairs of the petitioner for the last five years and will in future also not deal with the same and not do anything, acting on the authorization if any earlier granted/issued in his favour.

7. Binding the respondent No. 2 Mr. Jitender Malik to his aforesaid statement, the aforesaid relief No. i) also does not survive. We also request Ms. Vibhooti Malhotra, advocate for the respondent No. 1 to ensure that the earlier password allotted to the petitioner to access the Income Tax website is disabled and a fresh password is provided to the petitioner through Mr. Sanjeev Mahajan, Advocate, within four weeks of today and thereafter Mr. Rishab Kohli can take appropriate steps with respect to the taxation affairs of the petitioner, while continuing to be bound by the conditions imposed on him in Natasha Kohli supra.

8. As far as relief of continuation of Dr. Rakesh Gupta, Advocate is concerned, we are of the view that once Mr. Rishab Kohli has been made the guardian of the business and financial affairs of the petitioner, the need for Dr. Rakesh Gupta, Advocate to continue to act on behalf of the petitioner as an appointee of the Court does not survive and Mr. Rishab Kohli, if so desires, can continue the engagement of Dr. Rakesh Gupta, Advocate under a professional engagement; the counsel for the petitioner states that the fee of Dr. Rakesh Gupta, Advocate has already been paid.

9. We do not deem it apposite to go into the question of professional fees and leave it to Mr. Rishab Kohli and Dr. Rakesh Gupta to work out.

10. We also clarify that with the aforesaid, the stay informed to have been earlier granted vide order dated 20th December, 2016 with respect to the proceedings in pursuance to the notice issued by

respondent No. 1, does not survive and the respondent No. 1 shall be entitled to continue with the said proceedings under notice to Mr. Rishab Kohli as the guardian of business and financial affairs of the petitioner.

11. Dr. Rakesh Gupta, Advocate to now deal with Mr. Rishab Kohli, acting on behalf of the petitioner Mr. Mon Mohan Kohli.

12. Though with the aforesaid arrangement there is no need for an order of the Court but owing to shortage of time, permission is granted for manual filing of income tax returns of the petitioner for the assessment year 2020-2021.

13. The petition is disposed of.

RAJIV SAHAI ENDLAW, J.

SANJEEV NARULA, J.

JANUARY 19, 2021 nk