

Koushalya Devi Jhunjunwala vs Directorate Of Enforcement on 28 March, 2025

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 28th

+ MISC. APPEAL(PMLA) 46/2024 & CM APPL. 73696/2024

KOUSHALYA DEVI JHUNJHUNWALAAPPELLANT

Through: Mr. Madhav Khurana, Senior
Advocate with Assisting
Counsel (Appearance not given)

versus

DIRECTORATE OF ENFORCEMENTRESPONDENT

Through: Mr. Zoheb Hossain, Special
Counsel for ED, Mr. Vivek
Gurnani, Panel Counsel with Mr.
Kanishk Maurya and Mr. Kartik
Sabharwal, Advocates.

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+ MISC. APPEAL(PMLA) 47/2024 & CM APPL. 73699/2024

SANGITA JHUNJHUNWALA APPELLANT

Through: Mr. Madhav Khurana, Senior
Advocate with Assisting
Counsel (Appearance not given)

versus

DIRECTORATE OF ENFORCEMENTRESPONDENT

Through: Mr. Zoheb Hossain, Special
Counsel for ED, Mr. Vivek
Gurnani, Panel Counsel with Mr.
Kanishk Maurya and Mr. Kartik
Sabharwal, Advocates.

Signature Not Verified

Signed By:NAMITA

DHYANI

Signing Date:02.04.2025

MISC. APPEAL(PMLA) 46/2024 & conn. matters

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+ MISC. APPEAL (PMLA) 48/2024 & CM APPL. 73702/2024
SURUCHI JHUNJHUNWALA APPELLANT
Through: Mr. Madhav Khurana, Senior
Advocate with Assisting
Counsel (Appearance not given)

versus

DIRECTORATE OF ENFORCEMENTRESPONDENT
Through: Mr. Zoheb Hossain, Special
Counsel for ED, Mr. Vivek
Gurnani, Panel Counsel with Mr.
Kanishk Maurya and Mr. Kartik
Sabharwal, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present appeals under Section 42 of the Prevention of Money Laundering Act, 2002 ('PMLA') have been filed by the Appellants challenging the impugned order of the PMLA Appellate Tribunal (hereinafter referred to as 'Tribunal') dated 7th August, 2024.
3. Vide the impugned order, the Tribunal had dismissed the application preferred by the Appellants seeking de-freezing of the Bank accounts of the Appellants namely, Ms. Koushalya Devi Jhunjhunwala, Ms. Sangita Jhunjhunwala and Ms. Suruchi Jhunjhunwala.
4. The brief background of the case is that a debit freeze was initially imposed by the Enforcement Directorate (hereinafter 'ED') vide letter dated 16th October, 2018 on the Appellants' bank accounts. The details of the same are as under :-

S. No.	A/c No.	A/c Holders Name
1.	*****	*****
10.	50100067314136	Sangita Jhunjhunw
11.	00431000151216	Suruchi Jhunjhunw
12.	50100039417590	Kousalya Devi Jhunjhunwala

5. Ms. Koushalya Devi Jhunjhunwala had challenged the said debit freeze in W.P.(C) 12266/2018, in which the following order dated 16th November, 2018 was passed :-

"3. The petitioner has filed the present petition, inter alia, praying that the decision of respondent no.2 (Directorate of Enforcement) directing respondent no. 3/HDFC Bank Ltd. to impose a debit freeze on the bank account of the petitioner be quashed.

4. The petitioner is a lady of an advanced age of 75 years. The petitioner claims that she is residing in Vrindavan, Mathura, Uttar Pradesh for the last 20-25 years and has a very limited resources to meet her daily needs. She maintains a bank account with HDFC Bank (Saving Bank Account No. 50100039417590) and the said funds deposited there are principal source for her needs. The petitioner is, essentially, aggrieved by the order dated 16.10.2018 passed by Directorate of Enforcement directing HDFC Bank Ltd. to the extent it imposes a debit freeze on the said account.

5. Mr Bhandari, learned counsel appearing for the petitioner states that the petitioner would be satisfied if she would be permitted to withdraw a sum of 50,000/- per month in addition to any further sum that she may be now deposit from legitimate sources. This Court is also of the view that Directorate of Enforcement cannot stifle the survival of the petitioner and the provisions must be made to meet the petitioner's daily needs. It is also noticed that Directorate of Enforcement has not yet passed any order of provisional attachment either under Section 5 or 17 of the Prevention of Money Laundering Act, 2002.

6. Mr Mahajan, learned counsel appearing for Directorate of Enforcement states that the Directorate would be taking an informed view shortly and in any event within a period of four weeks from today. In the aforesaid view, this Court directs HDFC Bank to permit the petitioner to withdraw a sum of 50,000/- from the bank account in addition to any further sum that may now be deposited by the petitioner in that account. The debit freeze imposed by the Directorate of Enforcement being a temporary measure shall not be maintained beyond the period of four weeks from today.

7. The petition is disposed of with the aforesaid directions. The pending application is also disposed of.

8. It is clarified that this order has been passed with the consent of the learned counsel for the petitioner and this Court is not examined various issues raised in the petition including the power of Directorate to pass such orders of freezing bank accounts."

6. As can be seen from the order dated 16th November, 2018, the Co-ordinate Bench had directed HDFC Bank to permit the Appellant - Ms. Kousalya Devi Jhunjhunwala to withdraw a sum of Rs. 50,000/- per month from her bank account and also directed that the debit freeze imposed by the ED, being a temporary measure, shall not be maintained beyond a period of four weeks from the date of the said order. Thereafter, pursuant to the above directions, another provisional attachment order was passed on 10th December, 2018 attaching only the amount that remained pending in the

respective bank accounts.

7. The Appellants, then, approached the Tribunal against the provisional attachment as the debit freeze was continuing. However, unfortunately, the Tribunal had taken a position that since the earlier order was by the High Court, no order can be passed by the Appellate Tribunal. The relevant portion of the order reads as under :-

" FPA -PMLA - 3144/DLI/2019
6272/DLI/2023

& FPA -PMLA -

An application has been filed to seek a direction to allow operation of the Bank Accounts. The representative appearing to the appellant is fair enough to state that several applications were filed before the High Court and thereupon an order to allow the operation of the Bank Accounts was passed yet the respondent has not allowed the appellant to carry out the operation of the Bank Accounts. Therefore, application has been filed to seek appropriate order.

We have considered the submissions and find application to be not tenable. Once it was filed before the High Court followed by an order. The same request between the same parties would not maintainable and, accordingly, applications is dismissed. However, it would not restrain the appellant to take the remedy, if the order of the High Court has not been complied. The rejoinder to the reply has been filed in Appeal No.3144/2019. In two other connected appeals filed in the year 2023, the counsel for the respondent adopt the reply already filed in the appeal referred above and, accordingly, rejoinder already filed is also adopted by the representative appearing for the appellant."

Hence the present appeals are filed.

8. Today, Mr. Vivek Gurnani, ld. Counsel appearing for the ED submits that the amounts lying in the respective bank accounts have already been transferred to the ED pursuant to the order dated 10th December, 2018. It is further submitted that there is no debit freeze that is required, of the bank accounts in question and the Appellants are free to operate their bank accounts. The details of the amounts transferred have been set out below :-

Sr. No.	Name of Account Holder	Bank Account No.
1	Sangita Jhunjunwala	50100067314136 2,
2	Suruchi Jhunjunwala	00431000151216 5,
3	Kousalya Devi Jhunjunwala	50100039417590 9,

9. In view of the position taken by ED, it is made clear that there is no debit freeze on these bank accounts and the Appellants are free to operate their bank accounts in accordance with law.

10. ED shall write a communication to the respective banks within five working days, clarifying the above position as also attaching a copy of today's order for the purposes of lifting the debit freeze.

11. The Appeals filed before the Tribunal challenging the attachment orders against these bank accounts shall, however, be decided on their own merits. It is, however, made clear that as of today i.e., 28th March, 2025, there is no debit freeze in respect of the bank accounts mentioned above.

12. The appeals are accordingly disposed of in the above terms. Pending application(s), if any, stand disposed of.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE MARCH 28, 2025/nd/Ar.