



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 28108 OF 2025 (GM-RES)



BETWEEN:

1. SMT. JAYAMMA
W/O. LATE SRI. KALEGOWDA,
AGED ABOUT 70 YEARS,
R/A NO. 2521, 5TH CROSS,
K G KOPPAL,
MYSORE - 570 014.

... PETITIONER

(BY SRI. JAYSHAM JAYASIMHA RAO., ADVOCATE)

AND:

1. THE DIRECTORATE OF ENFORCEMENT
CONSTITUTED UNDER THE PMLA, 2002,
REPRESENTED BY ITS DEPUTY DIRECTOR,
3RD FLOOR, B BLOCK, BMTC,
SHANTINAGAR, TTMC, K H ROAD,
BENGALURU - 560 027.

... RESPONDENT

(BY SRI. ARAVIND KAMAT, ADDL. SOLICITOR GENERAL FOR
SRI. MADHUKAR M DESHPANDE, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO A. CALL FOR
RECORDS IN O.C.NO.301/2025 ON THE FILE OF THE HON'BLE
ADJUDICATING AUTHORITY (PREVENTION OF MONEY
LAUNDERING ACT, 2002) AT NEW DELHI AND ETC.





THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 05.03.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDERS AT DHARWAD BENCH THROUGH VIDEO CONFERENCING, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

CAV ORDER

The present petition has been filed calling in question validity of the provisional attachment order No.14/2025 in ECIR No.ECIR/BGZO/25/2024 dated 09.06.2025, which is the order of the respondent - Directorate of Enforcement, exercising powers under the provisions of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "PMLA").

2. The factual background to appreciate the legal controversy are as follows:

3. Sri.Bandigowda and Sri.Girigowda were the owners of land in Sy.No.13 of Malalavadi Village and after their demise, the petitioner and her daughter claim right by inheritance.



4. It is alleged by the petitioner that lands belonging to the petitioner were utilised for formation of Jayanagar Layout without acquisition. It is further submitted that the petitioner had represented Mysore Urban Development Authority (MUDA) to allot sites in lieu of compensation and considering such request MUDA is stated to have executed the Sale Deeds with respect to the sites.

5. It is also made out from the facts that the petitioner and her daughter had approached the Revenue Authorities requesting for effecting of Katha on the basis of Sale Deeds executed by MUDA. However, the said request had been declined.

6. Meanwhile, Sri. Snehamayi Krishna had filed a complaint before the Court of LXXXI Additional City Civil and Sessions Judge (CCH-82) vide PCR No.28/2024. The Special Court had directed the Karnataka Lokayukta Police to register a case, investigate and file a report as



contemplated under Section 173 of Cr.P.C. Pursuant to such direction, the Lokayukta Police had registered FIR bearing Crime No.11/2024 for the alleged offences punishable under Section 120-B, 166, 403, 406, 420, 426, 465, 468, 340 and 351 of IPC r/w Section 9 and 13 of the Prevention of Corruption Act, 1988 ("P.C. Act", for short) and under Section 3, 53 and 54 of the Prohibition of Benami Property Transactions Act, 1988 and Section 3 and 4 of the Karnataka Land Grabbing Prohibition Act, 2011 on 27.09.2024.

7. Subsequently, the respondent registered a complaint bearing No.ECIR/BGZO/25/2024 on 01.10.2024.

8. The Lokayukta Police after investigating into the allegations had filed a Final Report ('B' Report) before the Special Court insofar as accused nos.1 to 4 in the proceedings relating to the predicate offence which report was accepted by the Special Court on 28.01.2026. It is a matter of record that as on the date of the provisional



order of attachment further investigation as regards other accused remained inconclusive.

9. The complaint filed by Sri Snehamayi Krishna is on the premise that accused no.2 was allotted 14 sites by MUDA under the undue influence of accused no.1 and in connivance with accused No.3 and accused no.4 (reference to the accused is in the context of proceedings before the Special Court).

10. While the Lokayukta Police registered FIR bearing Crime No.11/2024 for the offences as detailed at para-6 as regards the predicate offences, while the respondent registered ECIR/BGZO/25/2024 on 01.10.2024 for the offences punishable under Sections 120-B and 420 of IPC and Section 9 and 13 of the P.C. Act, 1988.

11. Though the petitioner is not arraigned as an accused, however the sites allotted to the petitioner is stated to constitute proceeds of crime, which have been attached through the provisional order of attachment.



12. It is also borne out from the records that the Writ Petition was filed on 09.09.2025 challenging the order of provisional attachment dated 09.06.2025. On the basis of provisional attachment order, it is further stated that complaint came to be filed under the provisions of the PMLA on 07.07.2025.

13. It is made out from the facts that the respondent pursuant to the provisional attachment order has registered original complaint No.301/2025 before the Adjudicating Authority. It is brought to the notice of this Court that the Adjudicating Authority has passed its order on 26.11.2025 confirming the order of provisional attachment.

CONTENTIONS OF THE PETITIONER

14. The petitioner has assailed the order of provisional attachment on the following grounds:



15. The Director or Officer not below the rank of Deputy Director has not applied his mind nor recorded the essential findings as contemplated under the *second proviso* to Section 5(1) of PMLA before passing an order of provisional attachment.

16. Except for reproducing the language in the statutory provision, no grounds were made out for passing of provisional order of attachment that:

- (i) The imminent urgency for attachment of the properties was not made out.
- (ii) Absence of material that had formed the basis to believe that there was such urgency.
- (iii) The reasons to believe as recorded in the order of the provisional attachment is common as regards all properties as well as all the accused in an "*omnibus and cyclostyled manner.*"



17. The petitioner had placed reliance on the judgment of the Apex Court in the case of **Radha Krishan Industries v. State of Himachal Pradesh and Others**¹ wherein, the Apex Court while dealing with Section 83 of the Himachal Pradesh Goods and Services Tax Act, 2017 had observed that, it is not mere expediency but necessity to pass an order of provisional attachment to protect interest of Government Revenue, that required demonstration.

18. Reliance is also placed on the judgment of Guwahati High Court in the case of **Aftabuddin Ahmed and Another v. Enforcement Directorate and Others**² to contend that mere reiteration of the language of the statute without recording the basis and on what material belief was formed and reduced into writing, would not amount to compliance with the procedural requirements under Section 5(1) of the Act.

¹ (2021) 6 SCC 771

² 2024 SCC Online Gau 401



CONTENTIONS OF THE RESPONDENT .-

19. The Writ Petition is not maintainable to assail the impugned order in light of the provisions available for legal redressal in terms of the statutory scheme of PMLA.

20. The statutory process must be allowed to progress without interference by pre-judging the issue.

21. The order of the Adjudicating Authority has already been passed confirming the order of the provisional attachment against which appellate remedy is open to be invoked.

22. The non-attachment would result in transfer and dissipation of proceeds of crime.

23. The Court cannot sit in judgment on formation of opinion regarding "*reasons to believe*". No exceptional circumstances or *mala fides* are made out justifying the intervention.



24. There is substantial evidence to demonstrate that the sites constituted proceeds of crime and there has been strict adherence to procedural requirements making out no grounds for intervention through judicial review.

ANALYSIS:

25. At the outset, the respondent has contended that the Writ Petition is not maintainable in light of the statutory scheme of redressal provided under the PMLA and has drawn specific attention to the order of the Adjudicating Authority passed on 26.11.2025 confirming the order of provisional attachment after following the procedure contemplated under Section 8 of PMLA. It is further contended that, as against such order of the Adjudicating Authority, the aggrieved person has further opportunity of redressal by filing an appeal under Section 26 of PMLA before the Appellate Authority.

26. Insofar as such contention is concerned, the position of law appears to be well settled and the Apex



Court has held that under exceptional circumstances, the available statutory remedies may not be a bar for invocation of jurisdiction under Article 226 of the Constitution of India as observed in ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others***³ (*Whirlpool*) infra.

27. The Apex Court in ***Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority and Others***⁴ has observed that the power to issue prerogative writs under Article 226 is plenary in nature and that exercise of power conferred under writ jurisdiction being discretionary and it is for the court to decide as to exercise of such power in appropriate circumstances. The distinction was drawn between the concept of maintainability and entertainability and it was observed that though a writ petition would be maintainable, however, whether the same could be entertained is a matter of judicial discretion and has

³ (1998) 8 SCC 1

⁴ (2023) SCC Online SC 95



reiterated the observations in the case of **Whirlpool (supra)** as well.

28. The observations made in **Whirlpool (supra)** at paras-5 and 6 are of relevance and extracted below:

"5. A little after the dawn of the Constitution, a Constitution Bench of this Court in its decision reported in [1958] SCR 595 (State of Uttar Pradesh v. Mohammad Nooh) had the occasion to observe as follows :

"10. In the next place it must be borne in mind that there is no rule, with regard to certiorari as there is with mandamus, that it will lie only where there is no other equally effective remedy. It is well established that, provided the requisite grounds exist, certiorari will lie although a right of appeal has been conferred by statute, (Halsbury's Laws of England, 3rd Edn., Vol. 11, p. 130 and the cases cited there). The fact that the aggrieved party has another and adequate remedy may be taken into consideration by the superior court in arriving at a conclusion as to whether it should, in exercise of its discretion, issue a writ of certiorari to quash the proceedings and decisions of inferior courts subordinate to it and ordinarily the superior



court will decline to interfere until the aggrieved party has exhausted his other statutory remedies, if any. But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.. . ."

6. At the end of the last century, this court in paragraph 15 of its decision reported in (1998) 8 SCC 1 (*Whirlpool Corporation v. Registrar of Trade Marks, Mumbai*) carved out the exceptions on the existence whereof a writ court would be justified in entertaining a writ petition despite the party approaching it not having availed the alternative remedy provided by the statute. The same read as under :

(i) where the writ petition seeks enforcement of any of the fundamental rights ;

(ii) where there is violation of principles of natural justice ;

(iii) where the order or the proceedings are wholly without jurisdiction ; or



(iv) where the vires of an Act is challenged."

29. Hence, it is for the court to decide as to whether it needs to entertain the petition and intervene or allow the proceedings under the statutory scheme to progress to a logical conclusion.

30. The non-following of the procedure prescribed under the *Second Proviso* to Section 5(1) of PMLA would be a jurisdictional issue that would warrant interference in exercise of writ jurisdiction as being a recognized exemption for waiving of statutory remedy as made out in the case of **Whirlpool [(supra)]** (see exception (iii) at para-6)].

31. At the outset, it would also be necessary to examine as to whether the statutory scheme does provide for an alternative efficacious remedy of redressal as regards the person aggrieved by not following of the procedure prescribed under second proviso to Section 5 before passing of an order of provisional attachment.



32. The question of relegating an aggrieved person to avail of statutory remedy would be only when the statutory remedy provides for a forum for redressal of grievance.

33. Under the scheme of PMLA, an order of provisional attachment when passed under Section 5 would be followed by forwarding of a copy along with material in possession of the competent Officer to the Adjudicating Authority in terms of Section 5(2).

34. Subsequently, a complaint will have to be filed before the Adjudicating Authority in terms of Section 5(5) of PMLA and finally the process of adjudication is resorted and under Section 8 an order is passed by the Adjudicating Authority. It would be necessary to take note of the procedure and power under Section 8 of PMLA.

35. Section 8 of PMLA reads as follows:

"8. Adjudication.—(1) *On receipt of a complaint under sub-section (5) of section 5, or*



applications made under sub-section (4) of section 17 or under sub-section (10) of section 18, 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 serve a notice of not less than thirty days on such person calling upon him to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under sub-section (1) of section 5, or, seized [or frozen] under section 17 or section 18, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money-laundering and confiscated by the Central Government:

Provided that where a notice under this sub-section specifies any property as being held by a person on behalf of any other person, a copy of such notice shall also be served upon such other person:

Provided further that where such property is held jointly by more than one person, such notice shall be served to all persons holding such property.



(2) The Adjudicating Authority shall, after—

(a) considering the reply, if any, to the notice issued under sub-section (1);

(b) hearing the aggrieved person and the Director or any other officer authorised by him in this behalf; and

(c) taking into account all relevant materials placed on record before him, by an order, record a finding whether all or any of the properties referred to in the notice issued under subsection (1) are involved in money-laundering:

Provided that if the property is claimed by a person, other than a person to whom the notice had been issued, such person shall also be given an opportunity of being heard to prove that the property is not involved in money-laundering.

(3) Where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under subsection (1) of section 5 or retention of property or 3[record seized or frozen under section 17 or section 18 and record a finding to that



effect, whereupon such attachment or retention or freezing of the seized or frozen property] or record shall—

(a) continue during [investigation for a period not exceeding 2[three hundred and sixty-five days] or] the pendency of the proceedings relating to any [offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and]

[(b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60 by the [Special Court];]

[Explanation.—For the purposes of computing the period of three hundred and sixty-five days under clause (a), the period during which the investigation is stayed by any court under any law for the time being in force shall be excluded.]

(4) Where the provisional order of attachment made under sub-section (1) of section 5 has been confirmed under sub-section (3), the Director or any other officer authorised by him in this behalf shall forthwith take the [possession of the property attached under section 5 or frozen under sub-



section (1A) of section 17, in such manner as may be prescribed: Provided that if it is not practicable to take possession of a property frozen under sub-section (1A) of section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.]

[(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the moneylaundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

(6) Where on conclusion of a trial under this Act, the Special Court finds that the offence of moneylaundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.

(7) Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on



an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offence of money-laundering after having regard to the material before it.]

[(8) Where a property stands confiscated to the Central Government under sub-section (5), the Special Court, in such manner as may be prescribed, may also direct the Central Government to restore such confiscated property or part thereof of a claimant with a legitimate interest in the property, who may have suffered a quantifiable loss as a result of the offence of money laundering:

Provided that the Special Court shall not consider such claim unless it is satisfied that the claimant has acted in good faith and has suffered the loss despite having taken all reasonable precautions and is not involved in the offence of money laundering:]

[Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties



during the trial of the case in such manner as may be prescribed.]

36. In terms of Section 8 of PMLA, the owner of the property which is subject to an order of provisional attachment is: (i) served with a notice calling upon him to indicate sources of his income, earning or assets, out of which or by means of which he has acquired the property attached; (ii) show-cause why all or any of the properties should not be declared to be properties involved in money laundering and confiscated by the Central Government.

37. The Adjudicating Authority may under Section 8(2) after perusal of reply is theoretically vested with the power to drop the proceedings or to proceed under Section 8(3) to confirm the attachment of property. Needless to state, the Adjudicating Authority is required to record a finding as to whether the properties are involved in money laundering.



38. However, the procedure contemplated under Section 8 does not provide for testing the validity of the order of provisional attachment for non-following of the procedural requirement under *Second Proviso* to Section 5 (1).

39. As rightly contended by Sri Jaysham Jayasimha Rao, learned counsel for petitioner, the procedure prescribed under Section 8 is limited to confirmation of order of attachment, subject to the owner of the property establishing that the acquisition of property which is attached was acquired from sources of his income, earning or assets.

40. The procedural safeguard provided under *Second Proviso* to Section 5 as in the present case cannot be a matter of enquiry before the Adjudicating Authority.

41. Though Sections 5, 8 and 26 of PMLA do form a self-contained code, however, there are certain procedural aspects leading to exercise of power under *Second Proviso*



of Section 5, the breach of which are not aspects that could be a subject matter of proceedings under Section 8. Accordingly, the power under Section 8 does not permit such enquiry as is raised in the present case.

42. If that were to be so, it cannot be stated that the power conferred under Section 8 could be an efficacious alternative remedy to redress a grievance regarding non-following of restrictions imposed for exercise of power in the context of the *Second Proviso* to Section 5 of PMLA. Needless to state that, even if it was assumed that there was an alternative remedy in terms of law enunciated in ***Godrej Sara Lee Ltd. (supra)***, a writ petition would nevertheless be entertainable though subject to fulfillment of certain criteria.

43. The respondent has relied on the order passed in ***JSW Steel Ltd. v. Deputy Director, Directorate of Enforcement etc.***⁵ requesting the court to relegate the

⁵ (2025) SCC Online SC 2150



petitioner to avail of remedy under proceedings prescribed under the statute. However, the observations made by the Apex Court regarding the requirement for the parties to avail of the statutory remedy as the Act provided for a “.....comprehensive and self contained adjudicatory mechanism.” The observations must be looked at in the context of the facts. The Apex Court was considering a factual and legal matrix where there was a challenge to the proceedings emanating from the ECIR and the taking of cognizance of offences. However, in the present case the challenge is to the jurisdiction to pass an order under second proviso to Section 5 without following the procedure. Such fact of the order being passed under the second proviso to Section 5 which requires certain procedural safeguards to be adhered to and such non-adherence being challenged would present a factual matrix different from that before the Apex Court. Accordingly, the judgment of the Apex Court cannot be



made applicable to the case on hand in light the discussion made.

44. The respondent has relied on the judgment in ***Dyani Antony Paul and Others v. Union of India, Department of Directorate of Enforcement and Another***⁶ to contend that the Court ought not to entertain the writ petition, as the PMLA provides for a comprehensive scheme for redressal of grievance. However, in ***Dyani Antony Paul (supra)***, the Co-ordinate Bench though recognizes the statutory scheme, however, has proceeded to entertain the writ petition observing that grounds urged touch upon the jurisdiction of the Authority to adjudicate and the procedural aspects alleging violation of principles of natural justice. The observations at para-161 would be relevant and the same is extracted herein below:-

"161. In the writ petitions filed at Sl. No. I, II, III, IV, VI, VIII and IX, the challenge is not only to

⁶ 2020 SCC OnLine Kar 4995



the provisional order of attachment but also to the confirmation order of attachment, notice issued seeking information from the Banks and financial institutions, consequential notices issued to comply with the confirmation order of attachment, consequential notice for handing over possession of the properties issued, summons issued under Section 50(3) and the remand application filed before the Special Judge of PMLA Court and as such on the short ground of the petitioners having not availed the remedy provided under Section 8, 26 and 42 of the PML Act, the writ petitions are liable to be dismissed. However, this court desist from doing so for the reason, the grounds urged in some of the writ petitions would touch upon the very jurisdiction of the authority to adjudicate and the procedural aspects alleging violation of principles of natural justice being involved and as such this court has proceeded to adjudicate the writ petitions on merits also. Hence, in the facts obtained in the present case Point No. (v) is answered in the negative."

(emphasis supplied)

45. Accordingly, noticing that the contention regarding non-following of procedure prescribed under *Second Proviso* to Section 5 of PMLA being a jurisdictional issue, the entertainment of the writ petition would be on



the same lines as made out in ***Dyani Antony Paul (supra)***.

46. The challenge in the present writ petition is as regards the validity of the provisional attachment order dated 09.06.2025. The petitioner has specifically assailed the exercise of power vested in the Authority in terms of *Second Proviso* to Section 5 (1) of the PMLA.

47. The relevant extract of the statutory provision is as follows:-

"5. Attachment of property involved in money-laundering.— [(1)Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

(a) any person is in possession of any proceeds of crime; and

(b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner



which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter, he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country:

Provided further that, notwithstanding anything contained in [first proviso], any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the



basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.].

(emphasis supplied)

48. Admittedly, in the present case, the requirements of the *First Proviso* are not met insofar as no Final Report has been forwarded to the Magistrate as regards the predicate offence under Section 173 of Cr.P.C., as on the date of passing of the order of provisional attachment and such aspect is not controverted by the other side. However, the power to pass an order of provisional attachment is conferred upon an Officer of the rank of Director or any other Officer not below the rank of Deputy Director authorized by him for the purposes enumerated under Section 5, subject to fulfillment of the following criteria:-



(i) Has reason to believe which is recorded in writing and on the basis of material in his possession.

(ii) That, if such property involved in money laundering is not attached immediately, the non-attachment of property is likely to frustrate any proceedings under the Act.

49. Undoubtedly, in the present case, it is power exercised under the *Second Proviso* to Section 5 (1) which is called in question.

50. It is necessary to also note that the respondent has asserted at the time of arguments that Lokayukta Police were still investigating as regards the predicate offences against the other accused as on the date of passing of the provisional order of attachment. It was further submitted by the respondents that though 'B' Report was filed against some of the accused, i.e. accused Nos.1 to 4, the pending investigation against the other accused as at the relevant point of time has in effect



indicated the continuance of investigation and pending such investigation power under the *Second Proviso* to Section 5 of PMLA was sought to be initiated.

51. The *Second Proviso* to Section 5 confers power and contains a *non obstante* clause and provides that notwithstanding the *First Proviso*, the competent Officer could attach property provided such officer has reason to believe on the basis of material in his possession that if such property involved in money laundering is not attached immediately the non-attachment of property is likely to frustrate under the PMLA.

52. Insofar as the contention that the Authority has failed to adhere to the statutory mandate provided under the *Second Proviso* to Section 5, the matter requires consideration.

53. As noticed above, there must be a written record of reason to believe on the basis of material that, if the property involved in money laundering is not attached,



then such non-attachment of the property is likely to frustrate proceedings under the PMLA.

54. A detailed perusal of the order of provisional attachment would reveal that the Authority no doubt has evaluated the evidence relating to commission of offence of money laundering, however, insofar as the requirement under the *Second Proviso* to Section 5(1) of PMLA as referred to supra, the finding recorded at para-9 of the provisional attachment order does not satisfy the legal requirement.

55. The observations made at para-9 relating to the provisional attachment reads as follows:

"9. I have reasons to believe that the proceeds of crime involved in the subject case as discussed in this PAO, if the said identified immovable properties are not attached under the Act immediately, the non-attachment of the properties are likely to frustrate any further proceedings under the Act. In addition, if the Proceeds of Crime which are involved in Money Laundering are not attached, I have reasons to



believe that such Proceeds of Crime would further be laundered; that it will bear effect on the financial system and can break the economic backbone of the country and which will derail the Indian Economic Systems badly."

56. Except para-9, there is no recording of any finding that the competent Officer has reason to believe on the basis of material in his possession that if property involved in money laundering is not attached immediately, such non-attachment would be likely to frustrate the proceedings under the PMLA.

57. It is necessary that where the statute provides for exercise of power in a particular manner, power must be exercised strictly in accordance with such procedure or not at all. Such principle has consistently been followed and the observations of the Apex Court in ***Chief Information Commissioner and Another v. State of Manipur and Another***⁷ reads as follows:

⁷ (2011) 15 SCC 1



"40. It is well known that when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the Court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. It is a time-honoured principle as early as from the decision in Taylor v. Taylor⁸ that where a statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden. This principle has been followed by the Judicial Committee of the Privy Council in Nazir Ahmad v. Emperor⁹ and also by this Court in Deep Chand v. State of Rajasthan¹⁰ , AIR at para 9 and also in State of U.P. v. Singhara Singh¹¹ reported in AIR at para 8."

58. There must be adherence to the procedure prescribed under the *Second Proviso* to Section 5 of PMLA. Any deviation from the procedure prescribed would vitiate the order of the provisional attachment without the petitioner having to prove any further.

⁸ (1875) 1 Ch D 426 (CA)

⁹ (1935-36) 63 IA 372 : AIR 1936 PC 253 (2)

¹⁰ AIR 1961 SC 1527 : (1961) 2 Cri LJ 705

¹¹ AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)



59. In the guise of adherence to law mere copy-paste of statutory language to indicate compliance would not be sufficient. There must be application of mind to the particular facts to demonstrate that material in possession would indicate the failure of passing an order for provisional attachment would likely frustrate the proceedings under the PMLA.

60. In the present case, the proceeds of crime is stated to be the allotment of sites which was made *in lieu* of cash compensation in light of utilization of petitioner's property by the authority without acquisition.

61. The petitioner has filed a memo dated 20.11.2025 and has enclosed copy of the memorandum of writ petition in W.P.No.36147/2024 and would contend that the katha of the sites have still not been effected pursuant to the Sale Deeds executed.

62. A perusal of the petition enclosed would indicate that the petitioner had sought for a direction to



the MUDA for effecting transfer of katha with respect to sites transferred vide Sale Deeds dated 14.06.2024. In terms of the oral submission made, the said writ petition is still pending finalisation. If that were to be so, the question of transferring the proceeds of crime and layering such proceeds would not arise.

63. Any immovable property in the absence of mutation entries (katha) cannot be dealt with by way of transfer. Accordingly, the apprehension of the competent Officer that if provisional attachment is not resorted to, there would be a likelihood of frustrating the proceedings is not based on any objective material having a nexus with frustration of proceedings under the PMLA.

64. It is necessary to note that the material in possession of the competent Officer must be the basis for the reason to believe the necessity of attachment which if not resorted to would be likely to frustrate the proceedings.



65. The discussion in the provisional order of attachment relates to material that would throw light on probable commission of offence of money laundering which material cannot constitute material for reason to believe as regards the requirement under *Second Proviso* to Section 5 of PMLA.

66. There is clear distinction between the material that would indicate *prima facie* commission of offence of money laundering on one hand vis-à-vis the material that would enable the competent Authority to entertain reason to believe that the material in possession would necessitate attachment of property involved in money laundering which if not attached would frustrate the proceedings.

67. Further, it is also necessary to notice that the Sale Deeds executed in favour of the petitioner by MUDA relate to the period of 14.06.2024 and till date, the property has not been dealt with. As rightly pointed out



by the learned counsel for petitioner, there was no possibility of dealing with the property so as to create third party rights in light of absence of katha and it could be stated that there was no possibility of dealing with the property so as to frustrate the proceedings under the PMLA.

68. No doubt, the respondent would submit that the Adjudicating Authority has passed an order on 26.11.2025 which would render the present proceedings infructuous.

69. However, it is necessary to note that this court by order dated 31.10.2025 had observed as follows:

"Needles to state, any proceedings taken would be subject to the outcome of the present petition."

70. Such order was passed at the stage of arguments of the petitioner having been concluded and



the matter was posted for arguments of respondent as is evidenced from the order passed on 25.10.2025.

71. If the stage of the proceedings had reached an advanced stage of consideration and in such context, order of 31.10.2025 passed by this court, ought to be construed as the court having intended that any order passed pursuant to the impugned order of provisional attachment would be subject to the outcome of the present petition.

72. If that were to be so, it cannot now be contended that the order of adjudication passed on 26.11.2025 would have the effect of eclipsing the present proceedings.

73. It is also settled position that an order passed during the earlier stage of proceedings, if it forms the basis for subsequent orders to be passed and proceedings to be taken and it is found that the earlier order is legally defective, the corollary would be that the subsequent proceedings would also fail.



74. Accordingly, the order of provisional attachment at Annexure-'K' dated 09.06.2025 is set aside and consequently all further proceedings pursuant to such order passed as regards the rights of the petitioner would stand set aside, while reserving liberty to the Authority to initiate fresh proceedings, if circumstances under the Second Proviso to Section 5(1) of PMLA are made out and the circumstances warrant initiating such proceedings as is permissible in law.

75. Accordingly, the petition is ***disposed of.***

**Sd/-
(S SUNIL DUTT YADAV)
JUDGE**

NP/ VGR
CT:MHP
LIST NO.: 19 SL NO.: 2