CGHC010242752026 2026:CGHC:38263

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HIGH COURT OF CHHATTISGARH AT BILASPUR

(Order reserved on 19.08.2026)

Final order delivered on 31.08.2026

Final order uploaded on 31.08.2026

WPC No. 3241 of 2026

1 - Hrishabh Soni S/o- Kanhaiya Lal Soni, Aged About 39 Years R/o- Villa No. 1, Ambiance, Devpuri, Raipur District- Raipur Chhattisgah-492015

2 - Komal Soni, W/o- Hrishabh Soni Aged About 38 Years R/o- Vill No. 1, Ambiance, Devpuri, Raipur, District- Raipur Chhattisgarh-492015.

Petitioner(s)

Versus

1 - Deputy Director, Directorate Of Enforcement Zonal Office, A-1 Block, 2nd Floor, Pujari Chambers, Pachpedi Naka, Raipur, Chhattisgarh-492001.

Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s)	:	Mr. Satish Chand Verma, Senior Advocate assisted by Mr. Sajal Kumar Gupta and Mr. Nikhil Versney (through VC), Advocates
For Respondent(s)	:	Dr. Saurabh Pande, Advocate

C A V Order

Per Bibhu Datta Guru, J.

1. By way of the present writ petition under Article 226 of the Constitution of India, the petitioners have prayed for the following reliefs:

> *(a) Issue an appropriate writ, order or direction, preferably in the nature of Mandamus, directing the Respondent to accept the*

substituted security in the form of a Fixed Deposit of INR 4,36,05,780/- (Rupees Four Crores Thirty-Six Lakhs Five Thousand Seven Hundred Eighty only) in lieu of the attached properties mentioned at Serial Nos. 1, 3, 4, 5, 7 and 11 in the Provisional Attachment Order dated 09.12.2024;

(b) Pass any other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Facts of the case, as projected by the petitioners :

2. (a) The petitioners pleaded that petitioner No.1 is the proprietor of Shourya Enterprises and one of the partners in Swarnim Ventures, while petitioner No.2, who is the wife of petitioner No.1, is the proprietor of Bhavy Agency and is also one of the partners in Swarnim Ventures. According to the petitioners, the aforesaid business concerns are engaged in government supplies and project works and provide livelihood to several persons.

(b) According to the petitioners, an FIR bearing No.24/2019 was registered on 16.10.2019 by the Economic Offence Wing/Anti-Corruption Bureau, Raipur (EOW/ACB), under Section 13(1)(a) of the Prevention of Corruption Act, 1988 (for short, "the PC Act"), read with Sections 409 and 120B of the Indian Penal Code (for short, "the IPC"), against certain persons in connection with alleged irregularities relating to the District Mineral Fund (for short, "the DMF"). The petitioners state that they were not named in the said FIR and that the investigation ultimately culminated in a closure report, which was accepted by the competent Court on 08.11.2023.

(c) It is further pleaded that subsequently FIR No.08/2023 dated 17.07.2023 was registered at Police Station Tadoki, District Kanker, under various provisions of the IPC, in which, according to the petitioners, neither of them was named. Thereafter, on 16.01.2024, FIR No.02/2024 was registered by the EOW/ACB, Raipur, on the basis of information allegedly disclosed by the Directorate of Enforcement under Section 66(2) of the Prevention of Money Laundering Act, 2002 (for short, “the PMLA”), concerning alleged criminal conspiracy in tender allotments under the DMF Trust. The petitioners state that although petitioner No.1 was named in the said FIR, neither of the petitioners was subsequently arraigned as an accused in the charge-sheet.

(d) The petitioners further state that the Directorate of Enforcement registered ECIR/RPZO/02/2023 on 20.03.2023 in relation to the scheduled offences and thereafter referred FIR Nos.08/2023 and 02/2024 to the said ECIR by addenda dated 29.08.2023 and 23.02.2024. According to the petitioners, petitioner No.1 was arraigned as an accused by way of addendum dated 23.02.2024, whereas petitioner No.2 was neither named in the aforesaid FIRs nor in the ECIR or its addenda.

(e) It is the further case of the petitioners that the respondent, vide Provisional Attachment Order dated 09.12.2024, provisionally attached eleven immovable properties belonging to the petitioners, either jointly or individually, as the alleged equivalent value of proceeds of crime under Section 2(1)(u) of the PMLA. An Original Complaint No.10 of 2025 was thereafter filed before the learned Adjudicating Authority for confirmation of the provisional attachment.

(f) The learned Adjudicating Authority issued a show-cause notice dated 31.01.2025 under Section 8(1) of the PMLA. The petitioners submitted their written reply and were afforded an opportunity of oral hearing on 14.05.2025. Thereafter, vide order dated 23.05.2025, the attachment of the properties came to be confirmed. Aggrieved thereby, both the petitioners preferred appeals before the learned PMLAT, being FPA-PMLA Appeal Nos.1440/2025 and 1441/2025. During pendency of the aforesaid appeals, according to the petitioners, they filed applications bearing Nos. MP-PMLA-4463/RP/2025 and MP-PMLA-4465/RP/2025 seeking substitution of six of the attached properties, namely, the properties mentioned at Serial Nos. 1, 3, 4, 5, 7 and 11, by an equivalent Fixed Deposit of ₹4,36,05,780/-. The said amount represents, according to the petitioners, the aggregate assessed value of the properties sought to be substituted.

(g) The learned PMLAT, vide order dated 07.04.2026, dismissed the aforesaid applications, inter alia, upon consideration of Rules 4, 5 and 6 of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013 (for short, “the 2013 Rules”), observing that there was no provision under the PMLA and the Rules framed thereunder for substitution of an attached immovable property by a Fixed Deposit, except in the contingencies contemplated under Rules 5(5) and 6 thereof. The Tribunal further held that the petitioners had not made out a case under the said provisions and that the judgments relied upon by them did not warrant a different view. The Tribunal also observed that the question as to the validity of the attachment itself would be considered in the pending appeals.

<u>Contentions :</u>

3. (i) Learned Senior Counsel appearing for the petitioners would submit that the continued attachment of the aforesaid immovable properties is causing grave financial hardship to the petitioners and is seriously impairing their ability to carry on their legitimate business activities. It is submitted that the attached properties are either being utilised in connection with the petitioners' business and investment activities or constitute assets against which financial obligations have been secured, and their continued attachment is consequently affecting their cash flow, ability to service institutional borrowings and their commercial standing.

(ii) Learned counsel would further submit that the petitioners are not seeking to defeat or frustrate the proceedings under the PMLA. On the contrary, they are ready and willing to furnish a Fixed Deposit of ₹4,36,05,780/-, being equivalent to the assessed value of the properties sought to be released. According to learned counsel, the proposed Fixed Deposit would constitute a liquid, readily verifiable and unencumbered security in favour of the respondent and would adequately safeguard the interest of the enforcement authorities.

(iii) It is next submitted that the properties at Serial Nos. 1, 3, 4, 5, 7 and 11 were not attached as direct proceeds of crime but as "equivalent value of proceeds of crime" under Section 2(1)(u) of the PMLA. According to learned counsel, the distinction assumes significance while considering the prayer for substitution, as the object of such attachment is preservation of the value of the property until final adjudication and not punitive deprivation of the petitioners' property.

(iv) Learned counsel would submit that, once an equivalent and readily realisable security is offered, continuation of the attachment of the immovable properties serves no additional purpose and causes undue prejudice to the petitioners. It is contended that acceptance of the Fixed Deposit would preserve the value sought to be secured by the attachment, while permitting the petitioners to utilise their properties for legitimate business and financial purposes. The refusal to permit such substitution, according to learned counsel, is therefore disproportionate to the object sought to be achieved.

(v) Learned counsel would further submit that the statutory scheme itself contemplates acceptance of equivalent Fixed Deposit in the circumstances provided under Rule 5(5) of the 2013 Rules. According to learned counsel, the petitioners' offer of an equivalent Fixed Deposit is consistent with the underlying object of the said provision and adequately protects the interest of the respondent.

(vi) Learned counsel would submit that the learned PMLAT has declined to grant the relief on the ground that there is no statutory provision empowering it to permit substitution of the attached immovable properties by a Fixed Deposit. It is contended that the limitations applicable to the jurisdiction of the learned PMLAT do not curtail the extraordinary jurisdiction vested in this Court under Article 226 of the Constitution. According to learned counsel, this Court, in an appropriate case, can mould the relief so as to balance the interest of the enforcement authorities with the legitimate rights and interests of the petitioners.

(vii) It is further submitted that the petitioners' offer of equivalent security does not in any manner prejudice the proceedings under the PMLA or affect the ultimate rights of the respondent in respect of the value secured by the attachment. According to learned counsel, the proposed arrangement would merely substitute the form of security and would not result in dissipation or diminution of the value sought to be preserved under the attachment.

(viii) In support of his aforesaid submissions, learned counsel places reliance upon the following decisions :

- ***Sanjeev Tyagi & Ors. v. ED., FPA-PMLA-1287/DLI/2016 (PMLA Order).***
- ***Enforcement Directorate v. Y.S. Bharathi Reddy, CMSA No.15 of 2019, High Court of Telangana. (2022 SCC OnLine TS 3583)***
- ***Enforcement Directorate v. Y.S. Bharathi Reddy, SLP (Crl.) No.2285/2023 (Supreme Court).***
- ***Joint Director, Directorate of Enforcement v. A. Raja & Ors., Crl. L.P. No.184 of 2018 (Delhi High Court). (2020 SCC OnLine Del 3911)***
- ***Gagan Infraenergy Ltd. v. Deputy Director, Directorate of Enforcement, 2024 SCC OnLine Del 4019.***
- ***Revati Cements Pvt. Ltd. v. Union of India, 2024 SCC OnLine Del 4020.***
- ***Baldev Raj Arora v. Deputy Director, Directorate of Enforcement, FPA-PMLA-2568/LKW/2019.***
- ***Esskay Properties & Investments (P) Ltd. v. Union of India, 2022 SCC OnLine SC 2525.***

- ***Santur Builders Pvt. Ltd. v. Deputy Director, Directorate of Enforcement & Anr., W.P.(C) No.5502/2023. (Delhi High Court)***
- ***Jai Durga Industries & Anr. v. Union of India & Ors., W.P. (C) No.6314/2020. (Delhi High Court)***
- ***The Joint Director & Anr. v. Eastern Institute for Integrated Learning in Management University & Anr., 2025 SCC OnLine SC 1395.***
- ***Hemant S. Hathi v. Central Bureau of Investigation & Ors., W.P.(Crl.) No.37 of 2020. (Supreme Court)***

(ix) By referring the aforesaid decisions, learned would subnmit that the same would support his contention regarding the preservatory nature of attachment under the PMLA and the permissibility, in appropriate circumstances, of securing the interest of the enforcement authorities by accepting equivalent security in lieu of continued attachment of immovable property

(x) According to the learned Senior Counsel, there is no identification of proceeds of crime and the property has been attached without any of the proceeds of crime. He would submit that, in the case at hand, there is no allegation of money-laundering and the action has been taken only on the basis of assumption, that too without any cogent material. He would submit that there is no channel and even sufficient evidence is not there to establish the involvement of the present petitioners. Learned counsel would submit that on account of the impugned action on the part of the respondent, the right of the petitioners has been violated and they are not in a position to enjoy the property. Referring to Sections 5(4), 9, 10, 17(1)(f), 18, 22, 24 and 50 of the PMLA, learned counsel would submit that the matter which is of civil nature has been given a colour of criminal nature. In support of his aforesaid contentions, learned Senior Counsel would place reliance upon the decisions referred to hereinabove.

(xi) Lastly, learned senior counsel submits that, in view of the aforesaid circumstances and the petitioners' willingness to furnish equivalent security, the respondent be directed to accept the Fixed Deposit of ₹4,36,05,780/- and release the aforesaid six identified properties, subject to such terms and safeguards as this Court may deem appropriate.

4. (A) Learned counsel appearing for the respondent, opposing the writ petition, would submit that against the order dated 23.05.2025 passed by the learned Adjudicating Authority confirming the PAO, the petitioners approached the PMLAT by filing appeals and, during pendency of the same, moved the applications for substitution, which were dismissed by order dated 07.04.2026. It is submitted that, instead of preferring an appeal before this Court under Section 42 of the PMLA, the petitioners have preferred the present writ petition. Thus, according to learned counsel, the petition is not maintainable and deserves to be dismissed on this ground alone.

(B) Learned counsel would further submit that the prayer for substitution of the attached immovable properties by a Fixed Deposit is not founded upon any statutory right. According to learned counsel, the PMLA and the Rules framed thereunder do not contemplate a general power to substitute an attached immovable property by any other property or security. Reliance is placed upon

Rules 5(5) and 6 of the 2013 Rules, which contemplate substitution or acceptance of equivalent value only in the specific contingencies provided therein. It is submitted that the petitioners cannot claim an unconditional right of substitution merely by offering a Fixed Deposit of an amount equivalent to the value of the properties sought to be released.

(C) Learned counsel would submit that Rule 5(5) operates in the specific contingency where the immovable property confirmed by the Adjudicating Authority is under joint ownership. Even in such a case, the provision permits the authorised officer to accept the equivalent value of a Fixed Deposit only to the extent of the value of the share of the concerned person in the property, as estimated by the authorised officer. According to learned counsel, the expression “may accept” further makes it clear that the provision does not create an automatic or mandatory entitlement in favour of the person concerned. The petitioners, therefore, cannot enlarge the scope of Rule 5(5) so as to claim a general right of substitution in respect of the attached properties.

(D) Learned counsel would further submit that the learned PMLAT has considered the judgments relied upon by the petitioners and has rightly found that they do not establish any general proposition that an attached immovable property must necessarily be released upon furnishing an equivalent Fixed Deposit. It is submitted that the earlier orders relied upon by the petitioners were rendered in their own facts and circumstances and, in some cases, were passed on the basis of concessions or arrangements recorded therein.

(E) According to learned counsel, the petitioners’ plea that the attached properties represent only the “equivalent value of proceeds of crime” does not take the properties outside the statutory scheme of attachment under the PMLA. The nature of the attachment and the legality thereof are already the subject matter of the substantive appeals pending before the PMLAT and, therefore, the same ought not to be examined in the present proceedings. The petitioners' offer to furnish a Fixed Deposit, according to learned counsel, cannot be permitted to indirectly secure release of the properties while the validity of the attachment itself remains pending adjudication.

(F) Learned counsel would further submit that the alleged financial hardship, business difficulties or inconvenience caused to the petitioners cannot, by themselves, furnish a ground for directing substitution contrary to the statutory scheme. It is submitted that the provisional attachment, subsequently confirmed by the Adjudicating Authority, has been made in exercise of statutory powers and no jurisdictional error, perversity or violation of principles of natural justice has been demonstrated in the order passed by the learned PMLAT.

(G) Learned counsel would submit that the petitioners seek a positive mandamus directing the respondent to accept a particular form of security and release specified properties, but have failed to establish any corresponding statutory right or duty. It is, therefore, submitted that no ground is made out for exercise of the extraordinary and discretionary jurisdiction of this Court under Article 226 of the Constitution and the writ petition deserves to be dismissed.

(H) Learned counsel for the respondent would submit that the entire crime has been properly channelised towards misuse of DMF funds. He would submit that, after appreciating the entire facts and circumstances of the case, the learned competent Court has already taken cognizance of the matter, which has not been challenged by the petitioners. He would submit that the respondent has pointed out several materials and collected *prima facie* evidence against the petitioners.

(I) Learned counsel for the respondent would further submit that the investigation conducted by the Directorate of Enforcement revealed material indicating siphoning of DMF monies through connivance between public servants and vendors. It is submitted that, during the course of investigation, the financial data relating to utilisation of DMF funds for the period from 01.04.2016 to 31.03.2023 was analysed and the bank accounts and other financial details of the suspected persons and contractors were examined. According to learned counsel, the investigation revealed that, prior to allotment of DMF works, vendors had agreed to pay commission to public servants in consideration of allotment of works and clearance of bills, and that substantial amounts credited to the bank accounts of the vendors were withdrawn in cash or routed through entities providing accommodation entries against purported purchases which were not supported by actual transactions. It is submitted that such cash was thereafter utilised for payment of illegal commission to the concerned public servants and the remaining amount was retained by the vendors.

(J) Learned counsel would further submit that, in the case of petitioner No.1, the investigation revealed accommodation entries in the form of purported purchases amounting to ₹15,62,07,618/- through Bhavesh Nihichlani, against which commission at the rate of 3.75% to 5.25% was allegedly charged, aggregating to ₹66,94,535/-. According to learned counsel, after deducting the aforesaid commission, an amount of ₹14,95,13,083/- was arranged through such accommodation entries, out of which an amount of ₹8,94,46,559/- was allegedly paid as bribe to government officers, leaving ₹6,00,66,524/- in the possession of petitioner No.1 as the alleged proceeds of crime.

(K) It is further submitted that the Directorate of Enforcement has already filed a Prosecution Complaint under Section 45 of the PMLA before the learned Special Court (PMLA), Raipur, on 09.12.2024 against, *inter alia, t*he petitioner herein for the alleged offence of money-laundering. Learned counsel would further submit that the properties attached pursuant to the PAO have also been prayed to be confiscated under Section 8(5) of the PMLA in the said proceedings and that the learned Special Court has already taken cognizance of the Prosecution Complaint vide order dated 17.12.2024.

(L) Learned counsel would submit that, in these circumstances, the prayer for substitution cannot be considered in isolation from the pending proceedings concerning the alleged proceeds of crime and the consequential attachment and confiscation thereof. It is submitted that the petitioners had already sought an identical relief of substitution of the attached immovable properties by an equivalent Fixed Deposit/FDR or Demand Draft before the learned PMLAT in the pending appeals bearing FPA-PMLA-1440/RP/2025 and FPA-PMLA-1441/RP/2025. The learned PMLAT, vide its detailed and reasoned order dated 07.04.2026, dismissed the applications bearing M.P.-PMLA-4463/RP/2025 and M.P.-PMLA-4465/RP/2025, holding, upon consideration of the PMLA and the Rules framed thereunder, that there was no general provision permitting substitution of attached immovable properties by Fixed Deposit/Demand Draft.

According to learned counsel, the said order suffers from no jurisdictional error or perversity warranting interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution. Learned counsel would submit that the property in question is the joint property. According to him, there were three integrated aspects of the PMLA, i.e., Placement, Layering and Integration.

(M) In support of his contention, learned counsel for the respondent would place reliance upon the following decisions:

- ***Rikhab Chand Jain v. Union of India & Ors., 2025 SCC OnLine SC 2510***
- ***Opto Circuit India Ltd. v. Axis Bank & Ors., 2021 SCC OnLine SC 55.***
- ***Hetero Tracks Limited v. Deputy Director, Directorate of Enforcement, Delhi, (2017) 354 ELT 369 (AT-PMLA).***
- ***The Joint Director & Anr. v. Eastern Institute for Integrated Learning in Management University & Anr., SLP (Crl.) No.265/2024. (2025 SCC OnLine 1395)***
- ***Saregama India Limited v. Next Radio Limited, (2022)1 SCC 701***
- ***Vijay Madan Lal Chaudhary & Ors. v. Union of India & Ors., 2022 Live Law (SC) 633. (2022 SCC OnLine SC 929)***

5. In rejoinder, learned Senior Counsel, by referring to the provisions contained under Sections 193 and 228 of the IPC and Section 27 of the Evidence Act, would submit that the respondents are interpreting the provision of Section 50(4) of the PMLA incorrectly. Referring to the order passed by the

PMLAT, learned counsel would submit that, while dismissing the applications filed by the petitioners, the PMLAT categorically observed that there is no provision for substitution and, hence, the present writ petition is maintainable before this Court.

Analysis :

6. I have heard learned counsel for the parties and perused the material available on record.

7. The controversy in the present writ petition is confined to the question as to whether, during pendency of the appeals challenging confirmation of the PAO, the petitioners are entitled to seek substitution of the attached immovable properties by furnishing a Fixed Deposit of ₹4,36,05,780/- and whether the learned PMLAT was justified in declining such request ?

8. At the outset, it may be noted that the petitioners have already challenged the order dated 23.05.2025 passed by the learned Adjudicating Authority confirming the PAO by filing two separate appeals before the learned PMLAT. The said appeals are stated to be pending. The applications giving rise to the impugned order dated 07.04.2026 were filed during pendency of those substantive appeals and sought only substitution of certain attached properties by an alternative security. The learned PMLAT, while considering the said applications, has not finally adjudicated upon the legality or otherwise of the order of attachment, which remains open for consideration in the substantive appeals.

9. For the sake of convenience, it would be appropriate to notice the relevant provisions of the PMLA and the 2013 Rules. The relevant statutory provisions necessary for adjudication of the present controversy are extracted below:-

Relevant provisions of the PMLA:

> ***2. Definitions.--****(1) In this Act, unless the context otherwise requires.--*
>
> *xxx xxx xxx*
>
> *(u) "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property [or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad].*
>
> *Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.*
>
> ***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….

xxx xxx xxx

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.*

xxx xxx xxx

24. Burden of Proof.- *In any proceeding relating to proceeds of crime under this Act-*

> *(a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and*
>
> *(b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.]*

xxx xxx xxx

> *42. **Appeal to High Court.—**Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law or fact arising out of such order:*
>
> *Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.*
>
> *xxx xxx xxx*

Rule 5 (5) of the 2013 Rules:

> ***5. Manner of taking possession of immovable property.--***
>
> *xxx xxx xxx*
>
> *(5) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., and is under joint ownership, the authorized officer may accept the equivalent value of fixed deposit to the extent of the value of the share of the concerned person in the property estimated by the authorized officer, to be involved in money laundering.*
>
> *xxx xxx xxx*

10. The aforesaid statutory scheme requires the submission of learned counsel for the petitioners, founded upon Rule 5(5) of the 2013 Rules, to be examined in its proper perspective.

11. Rule 5(5) of the 2013 Rules, however, operates in a specific situation. The provision contemplates a case where the immovable property confirmed by the Adjudicating Authority is under joint ownership and permits acceptance of the equivalent value of the Fixed Deposit to the extent of the share of the

concerned person in the property, as estimated by the authorised officer. The provision, therefore, cannot, on its plain terms, be construed as conferring an unrestricted or general right upon every person whose immovable property has been attached and confirmed to demand substitution thereof by a Fixed Deposit. It is also significant that Rule 5(5) employs the expression "may accept" and not "shall accept". Thus, even where the contingency contemplated by the provision exists, acceptance of the Fixed Deposit is not couched as an absolute or mandatory statutory entitlement of the person concerned.

12. In the present case, the petitioners seek substitution of six identified properties against a Fixed Deposit of ₹4,36,05,780/-. Even assuming that any of the properties sought to be released are under joint ownership, the prayer is not shown to be confined to the value of the share of the concerned petitioner as contemplated under Rule 5(5). More importantly, the provision itself does not create an absolute right upon the person concerned to demand substitution merely because such person is willing to furnish security equivalent to the value of the property sought to be released.

13. The learned PMLAT has considered the statutory scheme governing possession of properties whose attachment has been confirmed by the Adjudicating Authority and has examined Rules 4, 5 and 6 of the 2013 Rules. Upon such consideration, the PMLAT has recorded a finding that there is no provision under the PMLA and the Rules made thereunder for substitution of immovable property other than provided under Rule 5(5) and 6 of the 2013 Rules.

14. It is true that the jurisdiction of this Court under Article 226 of the Constitution is wider than the jurisdiction conferred upon a statutory tribunal. However, the existence of such constitutional jurisdiction does not, by itself, confer upon a litigant a substantive right to obtain a relief which is otherwise not available under the statutory scheme. The question before the Court is not merely whether this Court possesses the power to mould an appropriate relief, but whether the petitioners have demonstrated circumstances warranting exercise of such extraordinary and discretionary jurisdiction in the present case.

15. In the present case, the petitioners have not demonstrated any statutory or other enforceable right to seek substitution of the attached properties in the manner sought by them. The mere offer of an equivalent Fixed Deposit cannot, by itself, create such a right. The learned PMLAT, upon consideration of the relevant provisions of the PMLA and the 2013 Rules, has declined the prayer for substitution, holding that the statutory scheme does not contemplate any general right to substitute the attached immovable properties by a Fixed Deposit, except in the specific contingencies provided therein. The petitioners have failed to demonstrate that the aforesaid view of the learned PMLAT suffers from any jurisdictional error, perversity or manifest illegality warranting interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution.

16. The reliance placed by learned counsel for the petitioners upon the decision in ***Eastern Institute for Integrated Learning in Management University (supra)*** also does not persuade this Court to take a different view. The principle that attachment under the PMLA is intended to preserve the value

of the property does not, by itself, establish an unconditional right in favour of the person whose property has been attached to insist upon substitution by an alternative security. The question whether, in a given case, an alternative security ought to be accepted necessarily depends upon the statutory framework and the facts and circumstances of that case. The said decision was rendered in the facts and circumstances of that case. It cannot, therefore, be treated as laying down an inflexible rule that every property attached under the PMLA must necessarily be released upon the offer of an equivalent security.

17. The reliance upon ***Y.S. Bharathi Reddy (supra)*** and ***A. Raja (supra)*** is also of no assistance to the petitioners in the facts of the present case. Even assuming that the said decisions recognise a distinction between property constituting proceeds of crime and property attached as equivalent value thereof, such distinction does not, by itself, create a statutory entitlement to substitution in every case. The question of the legality and validity of the attachment, including the nature of the properties attached, remains open in the substantive appeals pending before the learned PMLAT and need not be examined in the present proceedings.

18. The contention that the petitioners' offer of a Fixed Deposit would adequately secure the interest of the respondent also cannot, by itself, furnish a ground for issuing a mandamus. The acceptance of a particular form of security and release of property under a statutory attachment regime involve matters governed by the statutory framework. A writ of mandamus can be issued where a corresponding legal right and public duty are established. In the present case,

the petitioners have failed to demonstrate any such enforceable right to substitution of the attached properties in the manner sought by them.

19. The plea of financial hardship and inconvenience in carrying on business also does not alter the position. This Court is conscious that continued attachment of immovable properties may cause inconvenience to the person concerned. However, hardship by itself cannot confer a right to substitution contrary to the statutory scheme, particularly when the validity of the attachment itself is yet to be adjudicated in the pending statutory appeals.

20. Equally, this Court does not find it appropriate to examine in the present proceedings the petitioners' contention that the attached properties represent only the equivalent value of the alleged proceeds of crime or to enter into the factual controversy regarding the source, nature or valuation of the alleged proceeds of crime. As the PAO has already been confirmed by the Adjudicating Authority by its order dated 23.05.2025 and those form part of the substantive proceedings pending before the competent statutory forum i.e. PMLAT. Any observation on those aspects at this stage may prejudice either side in the pending appeals.

21. Section 42 of the PMLA provides a statutory remedy of appeal before the High Court against a decision or order of the Appellate Tribunal, on a question of law or fact arising out of such order within sixty days. The petitioners, instead of availing the said statutory remedy, have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution.

22. Though the existence of an alternative statutory remedy is not an absolute bar to exercise of writ jurisdiction, no exceptional circumstance has

been demonstrated in the present case warranting interference with the impugned interlocutory order, particularly when the substantive appeals against confirmation of attachment are already pending before the learned PMLAT. The petitioners have failed to demonstrate any jurisdictional error, violation of principles of natural justice or manifest illegality in the impugned order warranting exercise of the discretionary jurisdiction of this Court.

23. The Supreme Court in ***Authorized Officer, State Bank of Travancore v. Mathew K.C., (2018) 3 SCC 85***, and ***Commissioner of Income Tax & Others v. Chhabil Dass Agarwal, (2014) 1 SCC 603,*** has categorically held that when a statutory appellate machinery is available, the High Court should not bypass the statutory forum, particularly in economic and revenue matters. In ***Chhabil Dass Agarwal (Supra),*** the Hon'ble Apex Court observed:

> "11. *Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy. However, the High Court must interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the*

extraordinary jurisdiction under Article 226. (See: State of U.P. vs. Mohammad Nooh, Titaghur Paper Mills Co. Ltd. vs. State of Orissa, Harbanslal Sahnia vs. Indian Oil Corpn. Ltd., State of H.P. vs. Gujarat Ambuja Cement Ltd..

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"15. *Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."*

24. In the case of ***Rikhab Chand Jain (supra)***, the Hon'ble Supreme Court while dealing with a similar case has stated as follows:

"9. *While deciding whether to entertain a petition under Article 226 bearing in mind the precedents in* *the field, a writ court ought to additionally notice the forum designated by the statute for the litigant to approach. This is necessary because the alternative forum that is provided by the statute has to be one which can dispense speedy and efficacious relief. However, as in the present case, if the statutorily designated alternative forum happens to be the High Court itself whose jurisdiction under Article 226 is invoked and not any ordinary statutory functionary/ tribunal, refusal to entertain the petition should be the rule and entertaining it an exception.*

10. We may profitably refer, in this context, to the Constitution Bench decision in Thansingh Nathmal v. Superintendent of Taxes. In Thansingh Nathmal (supra), this Court had the occasion to lay down a principle of law which is salutary and not to be found in any other previous decision rendered by it. The principle, plainly, is that, if a remedy is available to a party before the High Court in another jurisdiction, the writ jurisdiction should not normally be exercised on a petition under Article 226, for, that would allow the machinery set up by the concerned statute to be bye-passed. The relevant passage from the decision reads as follows:

> *The jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the*

jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a Court of appeal against the decision of a Court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under Article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up.

11. Since the appellant had a remedy by way of a reference before the High Court against the order dated 23rd June, 2000 of the CEGAT, we do not *consider refusal to exercise discretion in favour of the appellant to be so fundamentally incorrect that interference is warranted.*

12. That apart, the majority view in a previous Constitution Bench in A. V Venkateswaran, Collector of Customs, Bombay vs. Ramchand Sobhraj Wadhwani reads thus:

> *14.....we must express our dissent from the reasoning by which the learned Judges of the High Court held that the writ petitioner was absolved from the normal obligation to exhaust his statutory remedies before invoking the jurisdiction of the High Court under Article 226 of the Constitution. If a petitioner has disabled himself from availing himself of the statutory remedy by his own fault in not doing so within the prescribed time, he cannot certainly be permitted to urge that as a ground for the Court dealing with his petition under Article 226 to exercise its discretion in his favour. Indeed, the second passage extracted from the judgment of the learned C.J. in State of U.P. v. Mohammed Nooh case with its reference to the right to appeal being lost through no fault of his own' emphasizes this aspect of the Rule.*

In essence, this Court was of the opinion that once a petitioner has due to his own fault disabled himself from availing a statutory remedy, the discretionary remedy under Article 226 may not be available.

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> *15. In our considered opinion, the appellant having had a remedy before the High Court in a separate jurisdiction which was equally efficacious, he indulged in the (mis)adventure of invoking its writ jurisdiction which was rightly not entertained.*

25. Upon a conspectus of the aforesaid discussion, this Court is of the considered view that the petitioners have failed to establish any statutory or enforceable right to seek substitution of the attached immovable properties by furnishing an equivalent Fixed Deposit. The learned PMLAT has considered the relevant provisions of the PMLA and the 2013 Rules and has declined the prayer for substitution for reasons which cannot be said to suffer from any jurisdictional error, perversity or manifest illegality. The validity of the attachment itself remains subject matter of the substantive appeals pending before the learned PMLAT. In such circumstances, coupled with the availability of the statutory remedy under Section 42 of the PMLA and absence of any exceptional circumstance warranting interference under Article 226 of the Constitution, this Court finds no ground to exercise its extraordinary discretionary jurisdiction in the present case.

26. Be that as it may, it is the well settled proposition of law that when a special enactment provides a statutory efficacious mechanism for redressal of the grievance, the High Court should not exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

27. As far as the case laws relied upon by the petitioners are concerned, the same are distinguishable to the facts of the present case and that too the same are on different peculiar facts and circumstances, wherein the Courts have

permitted the petitioners therein for substitution, but in the case at hand the petitioners have failed to establish their case for substitution.

28. For the foregoing reasons, this Court is of the considered view that no ground has been made out for exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution.

29. For the aforesaid reasons, the present writ petition, being devoid of merit, is liable to be and is hereby dismissed.

30. There shall be no order as to cost(s).

Sd/-

(Bibhu Datta Guru)
Judge

Rahul/Gowri

HEAD NOTE

When a special enactment provides a statutory efficacious mechanism for redressal of the grievance, the High Court should not exercise its extraordinary jurisdiction u/Article 226 of the Constitution.