



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 12TH DAY OF SEPTEMBER, 2024

PRESENT

THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV

AND

THE HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR

WRIT APPEAL NO.200185 OF 2024 (GM-RES)

BETWEEN:

1. RESERVE BANK OF INDIA,
THROUGH ITS GENERAL MANAGER,
CENTRAL OFFICE BUILDING,
SHAHID BHAGAT SINGH MARG,
MUMBAI – 400 001.
2. REGIONAL DIRECTOR FOR KARNATAKA
RESERVE BANK OF INDIA,
NRUPATUNGA ROAD,
BANGALORE – 560 001.

BOTH 1ST AND 2ND APPELLANT
REPRESENTED BY THEIR
ASSISTANT GENERAL MANAGER
MS. TRIPTA ROY.

...APPELLANTS

(BY SRI B.C.THIRUVENGADAM, SENIOR ADVOCATE FOR
SRI MANIK B.T. AND SRI AJAY JAWALI, ADVOCATES)

AND:

1. SHRI SANJUKUMAR @ SANJEEVKUMAR
S/O SHRI REVANSIDDAPPA KOD,



AGED 36 YEARS,
R/AT PLOT NO.48, SHANTI NAGAR,
C.I.B. COLONY,
KALABURAGI – 585 103.

2. THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF ECONOMIC AFFAIRS,
ROOM NO.39-B,
NEW DELHI – 110 001.

RESPONDENTS

(BY SRI SUDHIR SINGH R. VIJAPUR, DSGI FOR R2;
SRI ASHOK B. MULAGE, ADVOCATE FOR R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO SET ASIDE THE IMPUGNED ORDER AT ANNEXURE-A PASSED BY THE HON'BLE SINGLE JUDGE OF THIS HON'BLE COURT ON 22.03.2024 IN W.P.NO.208494 OF 2017 IN THE INTEREST OF JUSTICE AND EQUITY AND PASS SUCH OTHER ORDERS THIS COURT DEEMS FIT IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT APPEAL COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV)

This appeal is filed by the Reserve Bank of India challenging the order passed in Writ Petition No.208494/2017. In terms of the order in the writ petition, the petition came to be allowed, directing the Reserve Bank of India to consider the case of the petitioner, who had made representations at Annexures-F, G and J, whereby, the petitioner had sought for appropriate direction against the respondents to exchange the value of demonetized currency with legal tender.

2. This writ appeal is filed on the sole contention that insofar as exchange of demonetized currency with legal tender, such request can be considered only by the Union of India and not by the Reserve Bank of India. It is submitted by learned Senior Counsel Shri. B.C Thiruvengadam appearing on behalf of the Reserve Bank of India that the learned Single Judge had disposed off the writ petition directing the Reserve Bank of India to



consider the request for exchange on the basis of the order passed in ***Vivek Narayan Sharma and Others vs. Union of India and Others - (2023) 3 SCC 1***, which order however has been clarified by the Apex Court in its order in the Writ Petition (Civil) No.906/2016 in the same matter, by order dated 21.03.2023, whereby, it was clarified that it is not the Reserve Bank of India to whom the directions could be made on case to case basis in exercise of power under Article 142 of the Constitution of India, but direction would be made to the Union of India to consider the same. Accordingly, it is submitted that the legal grievance that would remain is that the direction made to the Reserve Bank of India may be substituted by a direction on same terms to the Union of India.

3. The learned counsel appearing on behalf the Union of India submits that at present, though he has no instructions, it is left to the Court to pass directions strictly in terms of the observations of the Apex Court.



4. After having heard both sides, it is noticed that the only contention of the Reserve Bank of India as noticed above, is that the Reserve Bank of India has no power to consider the representations of the petitioner and representations are now to be made only to the Union of India in terms of the order of the Apex Court. The order of the Apex Court in W.P.(Civil) No.906/2016 is extracted below:

"1. After the judgment(s) of the Constitution Bench passed in Writ Petition © NO.906/2016., dated 02.01.2023, reported in 2023(1) SCALE 79, we do not find that it will be permissible for us to exercise our jurisdiction under Article 142 of the Constitution of India to issue directions in individual cases to the Reserve Bank of India to accept the demonetized currency and exchange it with valid currency.

2. As already observed by us, in paragraph 256 and 257 of the judgment above mentioned, though the petitioner/applicants may have a genuine grievance, in view of the upholding of



the enactment, no relief can be granted by this Court.

3. However, if the petitioner(s)/applicant(s) so desire, they would be at liberty to make a representation to the Union of India to consider their individual grievances.”

5. In the light of the same, it is clear that the request of the petitioner is to be considered now by the Union of India.

6. It is to be noticed as rightly pointed out by learned Senior Counsel appearing on behalf of the Reserve Bank of India that the Courts before which the Bank notes seized by the investigating authorities has been produced, are required to follow the procedure as indicated in the notification issued by the Ministry of Finance bearing No.G.S.R.460(E) dated the 12.05.2017 and if such procedure is not followed, it would result in many of the litigants, who had no role in delayed attempt of exchanging the demonetized notes for legal tender, being



prejudiced. The notification of the Ministry of Finance reads as follows:

"G.S.R.460(E). – In exercise of the powers conferred by sub-section (1) of section 11, read with clause (c) of the proviso to section 5, of the Specified Bank Notes (cession of Liabilities) Act, 2017 (2 of 2017), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement. – (1) These rules may be called the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017.

2. Deposit of confiscated specified bank notes. – Where specified bank notes have been confiscated or seized by a law enforcement agencies or produced before a court on or before the 30th day of December 2016, such specified bank notes may be tendered, at any office of the Reserve Bank specified under sub-section (1) of section 4 of the Act or a nationalized bank designated by the Reserve Bank for the said purpose, for deposit in a bank account or exchange of the value thereof with legal tender, subject to the following conditions namely:-



(a) in case confiscated specified bank notes are returned by the court to a person who is a party in case pending before that court, then, the person shall be entitled, on production of the direction of the court, to deposit or exchange such specified bank notes, the serial numbers of which –

(i) have been noted by the law enforcement agency which confiscated or produced them before the court, and

(ii) are mentioned in the direction of the court;”

7. It is clear that in case confiscation of specified Bank notes by the investigating agencies and same is deposited by the Court, and once the same are returned by the Court to a person, who is the party in the case pending/decided before that Court, such person who is in receipt of the Bank notes may on production of direction of the Court, seek for exchange of such specified Bank notes. However, twin obligations required for the purpose of getting the benefit of the notification of 12.05.2017 are:



(i) That the law enforcement agency which confiscates the notes and/or produces them before the Court must mention the serial number of the specified Bank notes that have been confiscated and/or produced before the Court.

(ii) The direction of the Court referred to in the notification which would enable the litigant to make request for exchange of notes should mention the serial numbers of the Bank of the specified Bank notes seized by the Law Enforcement Agency in the direction of the Court while the Court permits returning of that amount to the person, who is a party in the case pending before that Court.

8. Such of the directions referred to above may be taken note of by the investigating agencies and the Courts concerned so as to enable the parties to the litigation to obtain exchange of the amount of the demonetized currency with legal tender in terms of the notification of the Ministry of Finance dated 12.05.2017. Unless there is adherence to the requirements of the notification strictly, parties to the litigation would be prejudiced irreparably



without any lapse on their part. Accordingly, the investigating agencies and the Courts are to adhere to the requirements of the notification dated 12.05.2017 strictly.

9. In the present case, the proceedings in the course of which the currency was seized was quashed and the Trial Court was directed to consider release of the seized properties. The Trial Court though has ordered for release of the demonetized currency, it is admitted that the order is not in accordance with the circular of the Ministry of Finance as referred to above.

10. Considering the tenor of the Government notification of May, 2017, the petitioner is bound to find it difficult to obtain the relief at the hands of the Union of India, even if direction is passed to the Union of India to consider the representations, which were directed to be considered by the Reserve Bank of India. Accordingly, to ensure that the relief afforded by the learned Single Judge is effective and taking note of the notification and requirement of the notification dated 12.05.2017, it would



be appropriate to reserve liberty to the petitioner to approach the same Court that has returned the demonetized currency that was seized in the proceedings, with a request to pass a fresh order taking note of the requirements of the notification of Ministry of Finance, New Delhi, dated 12.05.2017 in the light of the observations made above. Directions are passed to enable the petitioner to rely on the directions passed by the Court and seek for appropriate relief in terms of the notification of 12.05.2017.

11. After the petitioner avails such liberty and obtains order of the Court, copy of such order passed may then be submitted to the Union of India along with the fresh representation and the same may be taken note of by the Union of India and appropriate directions passed and steps taken.

12. It is also further clarified that in the light of the lapse of time, it is made clear that the fresh representation given by the petitioner would be treated to be a



continuation of the earlier representations made to the Reserve Bank of India which is now to be disposed off by the Government of India so that no prejudice is caused to the petitioner.

Accordingly, the writ appeal is disposed off.

Sd/-
(S.SUNIL DUTT YADAV)
JUDGE

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

SRT
List No.: 1 Sl No.: 8
Ct:Vk