

**APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI**

MP-PMLA-14185/CHN/2023 MP-PMLA-10189/CHN/2022 <b>FPA-PMLA-5119/CHN/2022</b> Shri Anitha R. Radhakrishnan	...	Appellant
MP-PMLA-2238/CHN/2024 MP-PMLA-2237/CHN/2024 MP-PMLA-10190/CHN/2022 <b>FPA-PMLA-5120/CHN/2022</b> Smt. R Jeyagandhi	...	Appellant
MP-PMLA-10191/CHN/2022 <b>FPA-PMLA-5121/CHN/2022</b> Shri R Shanmugananthan	...	Appellant
MP-PMLA-10192/CHN/2022 <b>FPA-PMLA-5122/CHN/2022</b> Shri Anandha R. Ramakrishnan	...	Appellant
MP-PMLA-10193/CHN/2022 <b>FPA-PMLA-5123/CHN/2022</b> Shri Anandha R. Padmanabhan	...	Appellant
MP-PMLA-10194/CHN/2022 <b>FPA-PMLA-5124/CHN/2022</b> Shri R. Shivananthan	...	Appellant
MP-PMLA-10195/CHN/2022 <b>FPA-PMLA-5125/CHN/2022</b> Shri R. Anandha Mageshwaran	...	Appellant
<b>FPA-PMLA-5172/CHN/2022</b> Indian Overseas Bank	...	Appellant

Versus

The Deputy Director, Directorate of Enforcement, Chennai	Respondents
--	-------------

**Advocates / Authorized Representatives who appeared:**

For the Appellant(s)	: Mr. Satish Parasara, Senior Advocate Mr. Prashant Pandey, Advocate Mr. Sundar Khatri. Mr. S. Ravi
----------------------	--

Ms. Akshita Chand  
Mr. Karan Kumar  
Mr. T.R.B. Sivakumar  
Mr. Deva Vrat Anand

For the Respondent(s) : Mr. Anubha Bhardwaj,  
Advocate  
Mr. Ayush Singh Dhami,  
Advocate  
Mr. Astik Dubey, Advocate

**CORAM**

**JUSTICE MUNISHWAR NATH BHANDARI : CHAIRMAN**

**ORDER**  
**08.05.2025**

By this appeal under Section 26 of the Prevention of Money-Laundering Act, 2002 (in short “**the Act of 2002**”) a challenge has been made to the order dated 23.09.2002 passed by the Adjudicating Authority confirming the Provisional Attachment Order dated 01.02.2022 whereby 18 properties of the appellant were attached.

**2.** It is necessary to clarify that the appeal has been preferred even by the Indian Overseas Bank to whom certain immovable properties were mortgaged by the appellant out of the properties attached vide PAO dated 01.02.2022. The attachment of the properties has been made in reference to a case registered against Shri Anitha R Radhakrishnan for the offence under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 (in short “**the Act of 1988**”). The

Directorate of Vigilance and Anti-Corruption, Thoothukudi (in short “**the DVAC**”) registered the case alleging assets disproportionate to the known sources of income of the appellant, Shri Anitha R Radhakrishnan. The check-period for it is from 14.05.2001 to 31.03.2006. After the investigation by the DVAC, charge-sheet was filed on 18.07.2013 before the Chief Judicial Magistrate and the Special Judge, Thoothukudi, Tamil Nadu where the appellant, Shri Anitha R Radhakrishnan and other appellants, being the family members were made accused. It was alleged that while the appellant was the Minister for Animal Husbandry Department for one year and subsequently Housing and Urban Development Minister between 02.03.2002 to 12.05.2006, he acquired assets disproportionate to the known sources of income.

**3.** The value of pecuniary resources and the properties acquired and possessed by the appellant as on 14.05.2001 was found to be of Rs.23,36,663.44 and the value of pecuniary resources and the properties acquired and possessed as on 31.03.2006 was found to be of a sum of Rs.6,86,11,964.78. The value of the pecuniary resources and the properties acquired by the family members were assessed to Rs.6,62,75,302.34. During the check-period, income of the appellant Shri Anitha R Radhakrishnan and his family members through their known sources and actual income derived by them was of Rs.

5,94,42,150.10 while the total expenditure was of Rs.1,39,63,231.80. Therefore, the savings of all the persons was found to be of Rs.4,54,78,918.00.

**4.** The DVAC ascertained the assets disproportionate to known sources to the extent of Rs.2,07,96,384.04 and thereby accused committed an offence under the Act of 1988. The respondent attached 18 properties for the value of Rs 1,00,45,098/- as against the disproportionate assets of Rs. 2,07,96,384/-. The attachment of the properties has been confirmed by the Adjudicating Authority and aggrieved by the aforesaid, the appeal has been preferred by the appellant which includes even the Indian Overseas Bank Ltd.

**Arguments of the Counsel for the appellant:**

**5.** The Counsel for the appellant submitted that after registration of the case by DVAC, initially disproportionate assets to the known source of income was assessed to Rs.2,68,24,755/-. However, on further investigation, disproportionate assets were brought down to Rs.2,07,96,384/. DVAC made an application under Section 3 read with Section 4 of the Criminal Law Amendment Ordinance, 1944 before the Special Judge vide Criminal MP No. 1877 of 2013 in Special Case no. 8/2008 to seek interim attachment of 8 immovable properties including 3 buildings to protect the proceeds of crime

to the extent of Rs. 2,07,96,384/- i.e. the amount of assets disproportionate in the hands of the appellant. 8 properties were ordered to be attached by the Special Court, Thoothukudi, Tamil Nadu vide its order dated 04.11.2013 and thereupon vide order dated 05.02.2020, the interim order of attachment was made absolute till the disposal of the main case. Five properties out of eight properties attached by the Special Court have been attached by the respondent while making attachment of the 18 properties.

**6.** It was argued by the Ld. Counsel for the appellant that the respondent has attached the properties already attached by the Special Court, however, it was only on value of land excluding the value of the building erected on it. This was nothing but a mala fide exercise of power by the respondent knowing it well if the land is attached, it would obviously include the building erected on it but to avoid the value of building, only value of the land was taken and that too when the building was otherwise attached by the Special Court on its value to make good of the amount of disproportionate assets of Rs. 2,07,96,384/-.

**7.** It was submitted that there was no reason for the respondent to attach the properties which could not have been said to be assets disproportionate to known source when the value of 8 properties was analyzed by the Special Court

matching to the disproportionate assets of Rs. 2,07,96,384/-. The description of the properties attached by the Special Court with its value was given to show that out of 8 properties, 5 properties are common in the PAO in question. It is, however, eliminating the building erected on the land so attached and thereby value of the attached properties was assessed to a sum of Rs. 1,00,45,098/-, however if true value of those 18 properties is taken and otherwise quantified by the DVAC including the value of buildings to analyze the disproportionate assets in the hands of the appellants, it comes to Rs.3,43,23,542/-. The amount aforesaid is over and above the amount of disproportionate assets of Rs. 2,07,96,384/-. The attachment of the property beyond the amount of proceeds of crime is not legal because what can be attached by the respondent is the property of equivalent value to the proceeds of crime, which was otherwise been attached by the Special Court earlier in time.

**8.** The Ld. Counsel for the appellant, further, submitted that once 8 properties for the value of Rs. 2,07,93,447/- were attached by the Special Court under Section 3 & 4 of the Criminal Law Amended Ordinance, 1944, the same properties could not have been made subject matter of attachment. The respondent attached 5 properties out of 8 properties though was not likely to be concealed, transferred or dealt with in any

manner which may result in frustrating the proceedings relating to confiscation of the property. In fact, when the properties were under attachment of the Special Court, the concealment or transfer of those properties in the hands of the appellant was not possible. The respondent, however, illustrated a Gift Deed which was executed amongst the appellants when they were not knowing about the order passed by the Special Court and otherwise it remains unregistered, thus, had no effect and in any case, it was under attachment during the pendency of the order of the Special Court. The attachment in the present case is, thus, hit by Section 5(1)(b) of the Act of 2002.

**9.** It is, further, submitted that out of 18 properties, many properties were under mortgage with the Indian Overseas Bank and therefore there was no possibility of its concealment or transfer. It is not that appellant bank caused a notice for auction of the properties so as to apprehend concealment or transfer of those properties yet the attachment of properties has been made. It is also hit by Section 5(1)(b) of the Act of 2002 for those properties which were under mortgage with the Bank.

**10.** The Ld. Counsel, further, clarified that many properties attached by the respondent were purchased out of the loan from the bank but ignoring the aforesaid, it was taken towards the proceeds of crime though the DVAC has not taken those

properties towards the proceeds of crime, rather, value of disproportionate assets was assessed to a sum of Rs.2,07,96,384/- excluding the value of the properties acquired out of the savings and bank loan.

**11.** The respondent stated that the property purchased out of the loan from bank were liable to be attached because the repayment of loan was made in cash by the appellant without realizing that properties are still under mortgage in absence of payment of loan amount to the bank and therefore the bank has also filed an appeal to seek release of those properties. In any case, the respondent ignored the basic fact analyzed by the DVAC in their case where the value of disproportionate assets was taken to be of a sum of Rs. 2,07,96,384/-. The income earned by the appellant, Shri Anitha Radhakrishnan and his family was analyzed to be of Rs. 5,94,42,150/- from their legal sources and expenditure of Rs.1,39,63,231.80. The DVAC thus found savings in the hands of the appellant to be of Rs.4,54,78,918.30 because all the appellants were Income-tax payee and income-tax returns were placed on record. After eliminating the amount of savings, the disproportionate assets were taken for a sum of Rs. 2,07,96,384/- (Rs.6,62,75,302 – Rs. 4,54,78,918/-).



**12.** The respondent has taken all the properties acquired by the appellant even from their legal source to be the proceeds of crime and thereby if true value of the properties as per the assessment of DVAC is taken, it goes beyond the value of proceeds of crime. Though, the value of the properties attached by the respondent have been taken to be of a sum of Rs.1,00,45,098/- by excluding the value of the building standing on the land attached by the respondent. The attachment order was thus issued only to harass the appellant with mala fide intention and thereby the impugned order deserves to be set-aside.

**Arguments of the Counsel for the respondent:**

**13.** The Ld. Counsel for the respondent has contested the appeal. Elaborate arguments were made in reference to the issues and would be referred while recording our findings in reference to the issues raised by the appellant for challenge to the impugned order. It is to save the repetition of the same facts and for the sake of brevity.

**Finding of the Tribunal:**

**14.** The brief facts pertaining to the case have been given in opening paras of the case, which reveal a case for the offence under Section 13(1)(e) read with Section 13(2) of the Act of 1988 against Shri Anitha R Radhakrishnan. After registration of the

case, DVAC caused investigation and even filed charge-sheet before the Chief Judicial Magistrate and Special Judge on 18.07.2023. The facts given in the charge-sheet and otherwise narrated in the impugned order passed by the Adjudicating Authority show that to determine the assets disproportionate to the known source, the check-period was taken from 14.05.2001 till 31.03.2006 when the appellant was the Minister of Animal and Husbandry for one year and in later part, Minister for Housing and Urban Development. The DVAC determined the value of the pecuniary resources and the properties possessed by the appellant, Shri Anitha R Radhakrishnan and his family members as on 14.05.2001 to the tune of Rs.23,36,663/-. The value of pecuniary resources and the properties acquired and possessed by the appellant as on 31.05.2006 was to be of a sum of Rs. 6,86,11,964/-.

**15.** Those properties were acquired by the appellant, Shri Anitha R Radhakrishnan, his wife and sons and brothers who are said to have utilized the money derived from unknown and unexplained sources during the check-period. The total value of the properties was quantified to be of a sum of Rs.6,62,75,302/-. It was with the further investigation to find out the income earned by the appellant through the known sources and the actual income of the family and other relatives. It was found to be of a sum of Rs.5,94,42,150/-. The

expenditure was determined to be of Rs.1,39,63,231/- and therefore likely savings out of the above was determined to Rs.4,54,78,918/- and thereby the assets disproportionate to the known sources to income was found for a sum of Rs.2,07,96,384/-. The amount of the assets disproportionate to the known sources was on the calculation of the assets as on 31.03.2006 to the tune of Rs.6,62,75,302/- (-) Rs.4,54,78,918/- = Rs. 2,07,96,384/-. Taking aforesaid calculation in mind, it becomes clear that out of total assets in the hands of the appellant to the tune of Rs.6,62,75,302/-, the assets out of the savings of Rs.4,54,78,918/- were taken out of the disclosed source and accordingly DVAC determined the proceeds of crime.

**16.** The issue raised for my consideration is whether the respondent could have attached 18 properties without determination as to whether any of the property was acquired out of savings of Rs.4,54,78,918/-. It is apart from the fact that while making attachment, the respondent attached the land leaving the building existing on the said land having a considerable value which otherwise was attached by the Special Court. At this stage, I would like to reproduce the list of 18 properties attached by the respondent which are hereunder:

**Table-A**

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
1.	Land at S.No. 2152 at Mynatheppakulam D.No. 6, Madurai	883 Sft	6985/2001 dt. 07.09.2001	4,20,000	Cash
2.	Plot measuring 2400 SFT with House at Thallakulam Sub Dist., KK Nagar East, 2 <sup>nd</sup> Street, Flat No. 224, Madurai	2400 sft	1006/2002 dt. 24.04.2002	8,10,000	Loan
3.	Punja land at manadu Thandupathu village, Tuticorin	2.40 hectares	164/2002 dt. 27.05.2002	28,500	Loan
4.	Punja land measuring 3.95 acres in S.No. 891/5, 98 cents in S.No. 891/6B and 1 Acre in S.No. 891/6C of Thandupathu village.	3.95 acres	165/2002 dt. 27.05.2002	1,75,000	Loan
5.	Land at Manadu thandupathu	38 Cents	244/2002 dt. 28.08.2002	15,000	Loan
6.	Residential plot measuring 2400 SFT with house at Thallakulam Village, Madurai	2400 Sft	1035/2003 dt. 21.03.2003	7,65,000	Loan
7.	Vacant land at Thallukulam village, Madurai, in S.No. 235/1, 235/1A  (Plot No. 17, Gurunagar, Thallakulam, Madurai)	6660 Sft	2067/2003 dt. 10.07.2003	8,40,000	Loan
8.	Plot measuring 3267 sft (7.5 Cents) at Thandupathu Village, Thoothukudi Dist.	3267 Sft	621/2004 dt. 02.06.2004	32,500	Cash
9.	Land with building at S.No. 2149 at Kamarajasalai, Theppakulam road, Madurai	643 Sft	4387/2004 dt. 05.07.2004	7,80,000	Loan
10.	House site measuring 475 SFT at Door No. 1, Mynatheppakulam, 4 <sup>th</sup> street, Madurai	475 Sft	4388/2004 dt. 05.07.2004	4,20,000	Cash
11.	Land with building at Door No. 3, Mynatheppakulam Road, Madurai	1547 Sft	5669/2004 dt. 01.09.2004	18,00,000	Loan

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
	(House Site measuring 1547 sq. ft. TS 2180 Mynathepakullam, 4 <sup>th</sup> Street, Madurai with an old building)				
12.	Land with building at Door No. 3, Mynatheppakulam Road, Madurai  (House Site measuring 1547 sq. ft. TS 2180 Mynathepakullam, 4 <sup>th</sup> Street, Madurai with an old building (subsequently demolished) in Door No. 3 (eastern side)	1547 Sft	5670/2004 dt. 01.09.2004	18,00,000	Loan
13.	Punja land SF No. 770/1, Manadu Thandupathu Tuticorin	4 acre 98 cents	182/2005 dt. 23.02.2005	33,000	Cash
14.	Agricultural Land at Survey No. 747, 748, 749, 750, 751, 752, 753 & 754 Padmanabhamangalam Village, Tuticorin	40 Acres	686/2005 dt. 23.02.2005	14,00,000	Cash
15.	Agricultural Land at S.No. 723/2, 726/1, 729/2, 733/1, 720, 732/1, 732/2, 730, 739, 741 Padmanabhamangalam village, Tuticorin	55.30 acres	811/2005 dt. 08.09.2005	5,56,000	Cash
16.	436 SFT empty land at Manadu Thandupathu village, Thiruchendur Circle, Thootukudi Dist.	436 Sft	1021/2005 dt. 22.09.2005	7,848	Cash
17.	1775 SFS empty land at Thandupatu Village, Thootukudi Dist.	1775 Sft	1020/2005 dt. 22.09.2005	17,750	Cash
18.	Agricultural land at S.No. 741/1, 727, 728, 729/1, 739, 740/1 at Padmanabhamangalam Village, Tuticorin	8.69 acres	1083/2005 dt. 23.11.2005	1,44,500	Cash
	Total			1,00,45,098	

**17.** The Special Court prior to the PAO attached 8 properties under Criminal Law Amendment Ordinance, 1944 to match the

amount of the assets disproportionate to the known source of income and is reproduced hereunder:

**Table-B**

Sl.No	Address and description of the property	Name of the person in whose name the property is registered and relationship with the accused	Document details	Value in Rs.
1.	Vacant site in Plot No. 17, Gurunagar, Thallakaulam, Madurai measuring 15 cents and 120 sq. ft.	1. Tmt. Jeyagandhi, W/o Tr. Anitha R. Radhakrishnan 2. Tr. Ananda Padmanaban, S/o Tr. Anita R. Radhakrishnan. 3. Tr. Ananda Ramakrishnan, S/o Tr. Anitha R. Radhakrishnan 4. Tr. Ananda Maheswaran, S/o Tr. Anitha R. Radhakrishnan	Sale Deed Bi, 2057/2003 of Thallalakulam, Sub-Registry, registered on 10.07.2003	9,72,544
2.	House constructed in Plot No. 17, Gurunagar, Thallakulam, Madurai	1. Tmt. Jeyagandhi, W/o Tr. Anitha R. Radhakrishnan 2. Tr. Ananda Padmanaban, S/o Tr. Anitha R. Radhakrishnan. 3. Tr. Ananda Ramakrishnan, S/o Tr. Anitha R. Radhakrishnan 4. Tr. Ananda Maheswaran, S/o Tr. Anitha R. Radhakrishnan	File No. NE3 7856/2003 of North Zone, Madurai Municipal Corporation and Valuation reports dated 02.04.05 and 21.04.06 of Tmt. Chitra Ratnakumar	77,83,000
3.	House site measuring 1547 Sq.ft. in T.S. No. 2180, Mynatheppakulam, 4 <sup>th</sup> Steet Madurai with an old building therein (Subsequently demolished) in Door No. 3. (Eastern side)	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan. 2. Tr. Shamuganandan, Brother of Tr. Anitha R. Radhakrishnan 3. Tmt. Jeyagandhi, W/o Tr. Anitha R. Radhakrishnan. 4. Tr. R. Ananda Padmanaban S/o Tr. Anitha R. Radhakrishnan 5. Tr. Ananda Ramakrishnan S/o Tr. Anitha R. Radhakrishnan 6. Tr. Ananda Maheswaran, S/o	Sale Deed No. 5670/04 of Joint Sub-Registry Madurai South registered on 01.09.2004	19,78,660

Sl.No	Address and description of the property	Name of the person in whose name the property is registered and relationship with the accused	Document details	Value in Rs.
		Tr. Anitha R. Radhakrishnan		
4.	House site measuring 1547 Sq. ft. in T.S. No. 2180, Mynatheppakulam, 4 <sup>th</sup> Street, Madurai with a House situated in Door No. 3 (Western side)	1. Tr. R. Sivanandan, Brother of Tr. ANitha R. Radhakrishnan 2. Tr. Shamuganandan Brother of Tr. Anitha R. Radhakrishnan 3. Tmt. Jeyagandhi W/o Tr. Anitha Radhakrishnan 4. Tr. R.Ananda Padmanaban S/o Tr. Anitha R. Radhakrishnan 5. Tr. Ananda Ramakrishnan S/o Tr. Anitha R. Radhakrishnan 6. Tr. Ananda Maheswaran, S/o Tr. Anitha R. Radhakrishnan	Sale Deed No. 5659/04 of Joint Sub-Registry Madurai South registered on 01.09.2004	19,78,360
5.	Commercial building situated in Door No. 3 Mynatheppakulam, 4 <sup>th</sup> street, Madurai constructed during 2005-06	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan 2. Tr. Shamuganandan Brother of Tr. Anitha R. Radhakrishnan 3. Tmt. Jeyagandhi W/o Tr. Anitha Radhakrishnan 4. Tr. R.Ananda Padmanaban S/o Tr. Anitha R. Radhakrishnan 5. Tr. Ananda Ramakrishnan S/o Tr. Anitha R. Radhakrishnan 6. Tr. Ananda Maheswaran, S/o Tr. AnNitha R. Radhakrishnan	File No. E7/3877/05 of East Zone, Madurai Municipal Corporation & Evaluation report of Door No. 3, Mynatheppakulam 4 <sup>th</sup> Street Madurai	52,30,806
6.	Punja land measuring 3.95 Acres in S.No. 891/5, 98 Cents in S.No. 891/6B and 1 Acre in S.No.891/6C of Thandupathu Village	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan 2. Tr. Shamuganandan Brother of Tr. ANitha R. Radhakrishnan 3. Tr. R.Ananda Padmanaban S/o Tr. Anitha R. Radhakrishnan	Sale Deed No. 165/2002 of Udankudi Sub-Registry registered on 27.05.2002	1,97,800

Sl.No	Address and description of the property	Name of the person in whose name the property is registered and relationship with the accused	Document details	Value in Rs.
7.	Commercial building situated In Door No. 6 Maina Theppakulam 4 <sup>th</sup> Street, Madurai constructed during 2004-05	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan 2. Tr. Shamuganandan Brother of Tr. Anitha R. Radhakrishnan 3. Tr. R.Ananda Padmanaban S/o Tr. Anitha R. Radhakrishnan 4. Tr. Ananda Maheswaran, S/o Tr. Annitha R. Radhakrishnan	File No. 3652/2003 of South Zone Madurai Municipal Corporation and Evaluation report of the building in Door No. 6, Mynatheppakulam, 4 <sup>th</sup> Street, Madurai	21,80,917
8.	House site measuring 475 Sq. Ft. with a House in Door No. 1, Mynatheppakulam , 4 <sup>th</sup> Street Madurai (subsequently demolished)	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan 2. Tr. Shanmuganandan , Brother of Tr. Anitha R. Radhakrishnan	Sale Deed No. 4388/04 of Joint Sub-Registry Madurai South, registered on 05.07.2004	4,71,360
Rupees Two Crores Seven Lakhs Ninety Three Thousand Four Hundred and Forty Seven only			Total	2,07,93,447

**18.** Out of the 8 properties given above, 5 properties at item no.s 1, 3, 4, 6 and 8 attached by Special Court have been attached by respondent while making attachment of 18 properties shown in Table-A. The list of 5 properties that are common in the attachment order passed by the Special Court and the respondent are reproduced hereunder:

**Table-C**

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
1.	Punja land measuring 3.95 acres in S.No. 891/5, 98 cents in S.No. 891/6B and 1 Acre in S.No. 891/6C of Thandupathu village.	3.95 acres	165/2002 dt. 27.05.2002	1,75,000	Loan



S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
2.	Vacant land at Thallukulam village, Madurai, in S.No. 235/1, 235/1A	6660 Sft	2067/2003 dt. 10.07.2003	8,40,000	Loan
3.	House site measuring 475 SFT at Door No. 1, Mynatheppakulam, 4 <sup>th</sup> street, Madurai	475 Sft	4388/2004 dt. 05.07.2004	4,20,000	Cash
4.	Land with building at Door No. 3, Mynatheppakulam Road, Madurai	15547 Sft	5669/2004 dt. 01.09.2004	18,00,000	Loan
5.	Land with building at Door No. 3, Mynatheppakulam Road, Madurai	15547 Sft	5670/2004 dt. 01.09.2004	18,00,000	Loan
	Total			50,35,000	

**19.** The learned counsel for the appellant argued that the respondent erroneously left the buildings appended to the land when both the land and the building existing on it has been attached by the Special Court that make good the amount of the disproportionate assets. Out of the 8 properties given in Table-B, the land of 4<sup>th</sup> Street, Door No. 6, Maina Theppakulam, Madurai at item no. 1 of Table-A has been attached by the respondent while the commercial building existing on the land at the value of Rs.21,80,917/- at item no. 7 of Table-B has not been shown with its value. Similarly, the land no. 17 Gurunagar, Thallakulam, Madurai at item no. 7 of Table-A has been attached by the respondent and also by the Special Court at item no. 1 of Table-B but while the Special Court attached the building over the land at item no. 2 of Table-B, the respondent – ED have not taken value of the building for a sum

of Rs.77,83,000/- while attaching the land. The third example is in regard to the attachment of land measuring 1547 sq. ft. TS 2180, Mynathepakulam, 4<sup>th</sup> Street by the respondent at item no. 11 of Table-A, while the respondent has not shown the value of commercial building at 4<sup>th</sup> Street, Door No. 3, Mynathepakulam, Madurai which is attached by the Special Court at item no. 5 of Table-B. The building over the land was not attached by the respondent – ED though the Special Court valued the building at Rs. 52,30,806/-. The modus of the ED was to eliminate the value of the building over the land attached by them. It cannot be said to be in conformity with the object of the law because attachment of the land always remains with the building existing on it. The total value of the property has to be taken and not merely of the land.

**20.** It is more so when to analyze the assets disproportionate to known source of income of the appellant was made, the DVAC had taken the total value of the properties which includes the value of the land and building and based on that, assets disproportionate to known source in the hands of the appellant was assessed to Rs. 2,07,96,384/-. The respondent – ED has ignored the aforesaid aspect while taking the value of the land eliminating the value of the building for the land at 4<sup>th</sup> street at Door No. 6, Building on Plot No. 17 and the building at 4<sup>th</sup> Street, Door No.3, Madurai. The total value of the building over

the land attached by the respondents comes to nearly Rs.1,51,94,723/- and if value of the land is separately taken for sum of Rs.30,60,000/- by the ED is added, the total value would be Rs.1,82,54,723/- (Rs.1,51,94,723/- + Rs. 30,60,000/-) This is only in regard to the 3 properties, referred to above, otherwise if other properties attached by the Special Court and are made subject matter of the attachment even by the ED, the value of those properties would be of Rs.2,07,93,447/-. It can be reflected by the following table:

**Table-D**

<b>Out of 8 properties attached by the Special Court, list of 3 buildings attached by the Special Court but not by the respondent/ED.</b>				
Sl.No	Address and description of the property	Name of the person in whose name the property is registered and relationship with the accused	Document details	Value in Rs.
1.	House constructed in Plot No. 17, Gurunagar, Thallakulam, Madurai	1. Tmt. Jeyagandhi, W/o Tr. Anitha R. Radhakrishnan 2. Tr. Ananda Padmanaban, S/o Tr. Anitha R. Radhakrishnan. 3. Tr. Ananda Ramakrishnan, S/o Tr. Anitha R. Radhakrishnan 4. Tr. Ananda Maheswaran, S/o Tr. Anitha R. Radhakrishnan	File No. NE3 7856/2003 of North Zone, Madurai Municipal Corporation and Valuation reports dated 02.04.05 and 21.04.06 of Tmt. Chitra Ratnakumar	77,83,000
2.	Commercial building situated in Door No. 3 Mynatheppakulam, 4 <sup>th</sup> street, Madurai constructed during 2005-06	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan 2. Tr. Shamuganandan Brother of Tr. Anitha R. Radhakrishnan 3. Tmt. Jeyagandhi W/o Tr. Anitha Radhakrishnan 4. Tr. R.Ananda Padmanaban S/o	File No. E7/3877/05 of East Zone, Madurai Municipal Corporation & Evaluation report of Door No. 3, Mynatheppakulam 4 <sup>th</sup> Street Madurai	52,30,806

<b>Out of 8 properties attached by the Special Court, list of 3 buildings attached by the Special Court but not by the respondent/ED.</b>				
Sl.No	Address and description of the property	Name of the person in whose name the property is registered and relationship with the accused	Document details	Value in Rs.
		Tr. Anitha R. Radhakrishnan 5. Tr. Ananda Ramakrishnan S/o Tr. Anitha R. Radhakrishnan 6. Tr. Ananda Maheswaran, S/o Tr. AnNitha R. Radhakrishnan		
3.	Commercial building situated In Door No. 6Maina Theppakulam 4 <sup>th</sup> Street, Madurai constructed during 2004-05	1. Tr. R. Sivanandan, Brother of Tr. Anitha R. Radhakrishnan 2. Tr. Shamuganandan Brother of Tr. Anitha R. Radhakrishnan 3. Tr. R.Ananda Padmanaban S/o Tr. Anitha R. Radhakrishnan 4. Tr. Ananda Maheswaran, S/o Tr. Annitha R. Radhakrishnan	File No. 3652/2003 of South Zone Madurai Municipal Corporation and Evaluation report of the building in Door No. 6, Mynatheppakulam, 4 <sup>th</sup> Street, Madurai	21,80,917
			Total	1,51,94,723/-

<b>The list of land which is attached by respondent/ED leaving the building existing on the said land. Land at Sr. No. 3 was not attached by the Special Court however, the building existing on the said land was attached by Special Court.</b>				
Sl.No	Address and description of the property	Value in Rs. As per ED	Document details	Value in Rs. As per DVAC
1.	Vacant site in Plot No. 17, Gurunagar, Thallakaulam, Madurai measuring 15 cents and 120 sq. ft.	8,40,000	Sale Deed Bi, 2057/2003 of Thallalakulam, Sub-Registry, registered on 10.07.2003	9,72,544
2.	House site measuring 1547 Sq.ft. in T.S. No. 2180, Mynatheppakulam , 4 <sup>th</sup> Steet Madurai with an old building.	18,00,000	Sale Deed No. 5669/04 of Joint Sub-Registry Madurai South registered on 01.09.2004	19,78,360
3.	Land at S.No. 2152 at Mynatheppakulam D.No. 6, Madurai	4,20,000	6985/2001 dt. 07.09.2001	4,20,000

<b>The list of land which is attached by respondent/ED leaving the building existing on the said land. Land at Sr. No. 3 was not attached by the Special Court however, the building existing on the said land was attached by Special Court.</b>				
Sl.No	Address and description of the property	Value in Rs. As per ED	Document details	Value in Rs. As per DVAC
	Total	30,60,000/-		33,70,904/-

**21.** The statement of the properties, referred to above shows the difference of the amount of three properties itself because ED has not taken the value of the building existing over the land so attached by them which cannot be said to be taking proper value of the properties for attachment. Thus, the action of the respondent may not be suffering mala fide but cannot be said to be just and proper on the facts of this case.

**22.** The matter has another angle if the entire case taken by the DVAC is considered. The assets in the hands of the appellant as on 31.03.2006 was for a sum of Rs. 6,62,75,302/. The respondent thereupon took note of the known source of the income derived by the appellant, his wife and relatives for a sum of Rs.5,94,42,150/- with total expenditure of Rs.1,39,63,231/. The savings in the hands of the appellant was taken to be of Rs.4,54,78,918/- and accordingly the difference of figure out of Rs.6,62,75,302/- (-) Rs.4,54,78,918/- was taken to be assets disproportionate to the known source of income for a sum of Rs.2,07,96,384/-

**23.** The element of savings to the extent of Rs.4,54,78,901/- has been ignored by the respondent while attaching the properties over and above the properties already attached by the Special Court. The respondent could not justify the attachment of the properties other than 5 properties attached by the Special Court and which were even attached by the ED except to eliminate the value of the building over the attached land. The assets disproportionate to known source would match if the value of the five properties is taken with inclusion of the value of the building then it would be equivalent to proceeds yet another 13 properties were attached by the respondent ignoring the fact that the appellants were having source to purchase the properties out of their savings and even taken loan. For the above purpose, we may reproduce para 3 of the impugned order giving gist of the facts and is quoted thus:

*“As per the charge sheet Shri Anitha R. Radhakrishnan was MLA from Tiruchendur Assembly Constituency during 14.5.2001 to 12.5.2006 and Minister for Animal Husbandry Department for one year and subsequently for Housing and Urban Development during 02.03.2002 to 12.5.2006. Smt. R.Jeyagandhi is the wife of Anitha Radhakrishnan and she is a homemaker. S/Shri T. R. Shanmuganandan & R. Sivanandan are brothers of Anitha Radhakrishnan. S/Shri Ananda Padmanaban, Ananda Ramakrishnan & Ananda Maheswaran are sons of Anitha Radhakrishnan and Smt. R. Jeyagandhi. The value of pecuniary resources and properties acquired and possessed by the above individuals as on 14.5.2001 was, RS 23,36,663.44 and the value of pecuniary resources and properties acquired and possessed by the above individuals as on 31.3.2006 is Rs. 6,86,11,964. 78. Thus, the value of pecuniary resources and properties acquired and possessed by the above individuals, found to have been acquired by wife, sons & brothers of Anitha Radhakrishnan by utilizing the money derived by him from unknown or unexplainable sources during 14.5.2001 to 31.3.2006 is Rs6,62,75,302.34. During the check period, the*

*income earned by Anitha Radhakrishnan through his known sources and the actual income derived in the names of his wife Smt. R. Jeyagandhi, sons S/Shri R. Ananda Padmanabhan, R. Ananda Ramakrishnan, R. Ananda Maheswaran, brothers S/Shri R. Sivanandan and R. Shanmuganamdan was Rs. 5,94,42,150.10 and the total expenditure was Rs. 1,39,63,231.80. Therefore, the likely savings of the above persons is found to be Rs. 4,54,78,9 18.30. The DVAC has ascertained that Shri Anitha R. Radhakrishnan has, as abetted by his wife, sons and brothers was in possession of pecuniary resources and properties disproportionate to his known sources of income to the extent of Rs. 2,07,96,384.04. As offences under Sec. 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988 are the Scheduled offences under PMLA, 2002, a case has been recorded under ECIR No. 21/CEZO-I/2020 dt. 22.12.2020 and investigation has been initiated under PMLA, 2002.”*

**24.** The Counsel for the respondent otherwise could not justify attachment of the properties worth of Rs.1,00,45,098/- as against the proceeds of crime of Rs.2,07,96,384/-. It was nothing but attachment of the properties in a manner so that it is kept below the value of the proceeds of crime. The value of 18 properties was taken for a sum of Rs.1,00,45,098/- with elimination of the value of the building on the land attached by the respondent. Whenever value of the property is to be taken, it has to be the Fair Market Value of the property on the date of acquisition and if the date of acquisition cannot be determined, the date on which property was possessed by such person. It would be total value of the property and not the value of the land alone. The respondent could not justify elimination of the value of the building existing on the land and accordingly the 18 properties were attached in ignorance of the relevant material.

**25.** The statement of 18 properties shown in Table-A make things clear because out of 18 properties, 12 properties in Table-A given at item nos. 2,3,5,6,8,9,13,14,15,16,17,18 referred therein have been attached by the respondent without justification and over and above the proceeds of crime. The properties common to the attachment made by the Special Court and the respondent-ED, have been given in Table-C.

**26.** The one property is the land attached by the ED and was not attached by the Special Court while they attached the building over the land and thereby the land attached by the respondent has been referred to which is as under:

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
1.	Land at S.No. 2152 at Mynatheppakulam D.No. 6, Madurai	883 Sft	6985/2001 dt. 07.09.2001	4,20,000	Cash
Total			4,20,000		

**27.** The three other properties attached by the Special Court have been referred earlier in Table-D which with the cost of building and comes to Rs.1,51,94,723/-.

**28.** Out of 18 properties, 6 properties attached by the respondent vide PAO make good of amount of Rs. 2,06,49,723/- if the total value of the property is taken i.e. the value of the building over those lands which has been attached by the respondent. Therefore, the respondent could not justify the



addition of 12 properties for attachment when total value of six properties is matching to the amount of proceeds of crime.

**29.** Further issue is as to whether there was justification even to attach 5 properties referred in the statement given in Table-C when those properties were already under attachment with the Special Court and thus there was no possibility of their concealment, transfer or to deal in any such manner which may frustrate the proceedings for confiscation. Section 5(1) of the Act of 2002 can be invoked when there exists apprehension of concealment, transfer or to deal with property to frustrate the proceedings of confiscation. Section 5(1)(b) of the Act of 2002 is quoted hereunder for ready reference:

*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)   xx               xx               xx               xx               xx*  
*(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,*

*xx               xx               xx               xx               xx               xx*

**30.** The provision aforesaid allows attachment of the property when it is likely to be concealed, transferred or to be dealt in a

manner to frustrate the proceedings of confiscation which could not be referred by the respondent. The property under attachment of the Special Court cannot be concealed by the appellant or transfer till it remains under attachment. Though, if the attachment is lifted by the Special Court, definitely it can be concealed, transferred or dealt with to frustrate the proceedings of confiscation. Therefore, while concluding the order, I would make things clear so that action of the respondent remains in consonance with the provisions of the Act.

**The Appeal of the Financial Institution**

**31.** The financial institution – Indian Overseas Bank Ltd. has also filed an appeal to indicate that following properties were under mortgage which are as under: -

**Table-E**

Property No.	Property Details	Property Owner(s)	Date of deposit of title deeds	Mortgaged for loan granted to	Present Facilities
1.	Land at S. No. 2152 at Mynatheppakulam 4 <sup>th</sup> Street, Town Survey Ward No. 1 D.No. 6 Madurai Extent: 883 sq. ft.	R. Sivanandan R. Shanmuganandhan R. Ananda Padmanabhan R. Ananda Maheswaran	28.12.2003 Supplementary Mortgage / Registered MoD done subsequently	1. Anitha Metal Corporation	CC: Rs.200 lakhs GECL: Rs. 40 lakhs GECL: Rs.20 lakhs
2.	Plot with House in Re-survey no. 154/4B at No. 224, KK Nagar East, 2 <sup>nd</sup> Street, Thallakulam Village, Madurai Corporation Ward No. 6,	R. Sivanandan 8922	22.07.2022 Supplementary Mortgage / Registered MoD done subsequently	1. Anitha Stores	CC: Rs.275 lakhs TL: Rs.13.50 lakhs GECL: Rs. 57.05 lakhs

Property No.	Property Details	Property Owner(s)	Date of deposit of title deeds	Mortgaged for loan granted to	Present Facilities
	Madurai Extent: 2400 sq. ft.				
3.	Land with Building at Door No. 1A, TS No. 2149, Mynatheppakulam 4 <sup>th</sup> Lane Corporation Ward No. 46, Madurai Extent: 643 sq. ft.	R.Sivanandan R.Shanmuganandhan	20.10.2004 Supplementary Mortgage/ Registered MoD done subsequently	1.Anitha Metal Firm 2. Anitha Metal Ware 3. Anitha Furniture World	Anitha Metal Firm” CC:Rs.30 lakhs GECL: Rs. 6 lakhs Anitha Metal Ware: CC:Rs.200 lakhs GECL; Rs. 40 lakhs GECL: Rs. 20 lakhs Anitha Furniture World TL: Rs.10 Lakhs
4.	House site in TS No. 2149, Corporation Ward 46, Door No. 1, Mynatheppakulam 4 <sup>th</sup> Street Madurai Extent: 475 sq. ft.	R.Sivanandan R. Shanmuganandhan			
5.	Land with Building at Door No. 3, TS No. 2180, Mynatheppakulam Corporation Ward No. 46, 4 <sup>th</sup> lane, Madurai Extent: 1547 sq. ft.	R. Jeyagandhi R. Sivanandan R. Shanmuganandan R. Anantha Padmanabhan R. Anantha Ramakrishnan R. Anantha Maheswaran	08.10.2004 Supplementary Mortgage / Registered MoD done subsequently	1.Anitha Metals and Kitchenware 2. Sr. Ramamorthy Metal Corporation	Anitha Metals and Kitchen Ware: CC:Rs390 lakhs GECL: Rs. 99 lakhs  Sr. Ramamorthy Metal Corporation: CC: Rs.300 lakhs
6.	Land with Building at Door No. 3 TS No. 2180, Mynatheppakulam Corporation	R. Jeyagandhi R. Sivanandan R. Shanmuganandan R. Anantha Padmanabhan R. Anantha Ramakrishnan R. Anantha Maheswaran			

They intended to recover the amount of loan and otherwise appellant submitted that when the properties aforesaid were

under mortgage, its concealment or transfer in the hands of the accused was not possible. It is not required to go deep on the issue for the reasons that few properties under mortgage are the common for which respondent failed to give justification for its attachment because even six properties attached by the appellant out of 18 properties were sufficient to match the amount of proceeds of crime to a sum of Rs.2,07,93,384/- if the total value of the property is taken i.e. value of the land and building. The respondent was not at liberty to take the value only of the land leaving the building while making attachment and thereby I do not find any justification of attachment of 12 properties at item nos. 2,3,5,6,8,9,13,14,15,16,17,18 of Table-A out of 18 properties.

**32.** In the light of aforesaid, I partly allow the appeal to hold attachment of following properties to be illegal:-

**Table-F**

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
1.	Plot measuring 2400 SFT with House at Thallakulam Sub Dist., KK Nagar East, 2 <sup>nd</sup> Street, Flat No. 224, Madurai	2400 sft	1006/2002 dt. 24.04.2002	8,10,000	Loan
2.	Punja land at manadu Thandupathu village, Tuticorin	2.40 hectares	164/2002 dt. 27.05.2002	28,500	Loan
3.	Land at Manadu thandupathu	38 Cents	244/2002 dt. 28.08.2002	15,000	Loan

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
4.	Residential plot measuring 2400 SFT with house at Thallakulam Village, Madurai	2400 Sft	1035/2003 dt. 21.03.2003	7,65,000	Loan
5.	Plot measuring 3267 sft (7.5 Cents) at Thandupathu Village, Thoothukudi Dist.	3267 Sft	621/2004 dt. 02.06.2004	32,500	Cash
6.	Land with building at S.No. 2149 at Kamarajasalai, Theppakulam road, Madurai	643 Sft	4387/2004 dt. 05.07.2004	7,80,000	Loan
7.	Punja land SF No. 770/1, Manadu Thandupathu Tuticorin	4 acre 98 cents	182/2005 dt. 23.02.2005	33,000	Cash
8.	Agricultural Land at Survey No. 747, 748, 749, 750, 751, 752, 753 & 754 Padmanabhamangalam Village, Tuticorin	40 Acres	686/2005 dt. 23.02.2005	14,00,000	Cash
9.	Agricultural Land at S.No. 723/2, 726/1, 729/2, 733/1, 720, 732/1, 732/2, 730, 739, 741 Padmanabhamangalam village, Tuticorin	55.30 acres	811/2005 dt. 08.09.2005	5,56,000	Cash
10.	436 SFT empty land at Manadu Thandupathu village, Thiruchendur Circle, Thootukudi Dist.	436 Sft	1021/2005 dt. 22.09.2005	7,848	Cash
11.	1775 SFS empty land at Thandupatu Village, Thootukudi Dist.	1775 Sft	1020/2005 dt. 22.09.2005	17,750	Cash
12.	Agricultural land at S.No. 741/1, 727, 728, 729/1, 739, 740/1 at Padmanabhamangalam Village, Tuticorin	8.69 acres	1083/2005 dt. 23.11.2005	1,44,500	Cash

**33.** The description of 6 other properties are as under:-

**Table-G**

S.No.	Description of property	Extent	Document No. & date	Document value	Mode of payment
1.	Punja land measuring 3.95 acres in S.No. 891/5, 98 cents in S.No. 891/6B and 1 Acre in S.No. 891/6C of Thandupathu village.	3.95 acres	165/2002 dt. 27.05.2002	1,75,000	Loan
2.	Vacant land at Thallukulam village, Madurai, in S.No. 235/1, 235/1A	6660 Sft	2067/2003 dt. 10.07.2003	8,40,000	Loan
3.	House site measuring 475 SFT at Door No. 1, Mynatheppakulam, 4 <sup>th</sup> street, Madurai	475 Sft	4388/2004 dt. 05.07.2004	4,20,000	Cash
4.	Land with building at Door No. 3, Mynatheppakulam Road, Madurai	15547 Sft	5669/2004 dt. 01.09.2004	18,00,000	Loan
5.	Land with building at Door No. 3, Mynatheppakulam Road, Madurai	15547 Sft	5670/2004 dt. 01.09.2004	18,00,000	Loan
6.	Land at S.No. 2152 at Mynatheppakulam D.No. 6, Madurai	883 Sft	6985/2001 dt. 07.09.2001	4,20,000	Cash

5 properties at Item No. 1 to 5 of Table-G are under attachment with the Special Court and thereby there was no possibility of its concealment or transfer of the properties and hence I find no justification to attach first 5 properties going contrary to Section 5(1)(b) of the Act of 2002 and thus attachment of these properties is held to be improper. It is, however, made clear that if the Special Court lifts its order for attachment of first 5 properties, the respondent can pass a fresh order of attachment of those properties for which presently there is no apprehension of concealment or transfer while the properties are under

attachment with the Special Court. The reference of the Gift Deed made by the appellant cannot be given to make the case for concealment of other properties under attachment with the Special Court. So far as the property at item no. 6 of Table-G is concerned, I find reasons for attachment of the said property by the respondent and endorse the attachment of the land in the hands of the respondent and thereby no interference in regard to the said properties remains, rather, attachment for that property is maintained. The five properties would otherwise remain under attachment of the Special Court.

**34.** The appeal has been filed by the Indian Overseas Bank and the properties mortgaged with the Bank are shown in Table-E.

**35.** In the light of the discussion made above, I find attachment of the properties mortgaged to the Indian Overseas Bank to be not sustainable in the facts and circumstances of the case. It is not only for the reasons that few properties have not been taken to be part of the assets disproportionate to the property by me but otherwise hit by Section 5(1) of the Act of 2002. Accordingly, interference in the attachment of the properties mortgaged has been made. However, it is with a liberty to the respondent to pass afresh order of the attachment, if the mortgaged properties are to be auctioned by the bank or

settled with the borrower which may result in concealment or transfer of the properties but it would be only of those properties which have been considered by me to be assets disproportionate to the known source of the appellant.

**(Justice Munishwar Nath Bhandari)**  
**Chairman**

**NEW DELHI**  
**08.05.2025**  
**'MB'**