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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 9718/2024

LEOSIGN DEVELOPERS PVT LTD

.....Petitioner

Through: Mr. Vikas Pahwa, Senior Advocate
with Mr. Anirudh Bakhru, Mr. Sumer
Singh Boparai, Mr. Sajal Bansal, Mr.
Sidhant Saraswat, Mr. Surya Pratap
Singh, Mr. Sirhan Seth, Mr. Arjun
Singh, Ms. Annada Dubey and Ms.
Kajal Andhiwal, Advocates.

versus

INCOME TAX OFFICE & ANR.

.....Respondents

Through: Mr. Sunil Agarwal, Senior Standing
Counsel, Mr. Shivansh B Pandya Jr.
Standing Counsel, Viplav Acharya Jr.
Standing Counsel, Ms. Priya Sarkar
Jr. Standing Counsel and Mr. Utkarsh
Tiwari, Advocates for respondent
department.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **11.12.2024**

CRL.M.A. 37283/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 9718/2024, CRL.M.A. 37282/2024 & CRL.M.A. 37284/2024

3. The instant petition under section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 482 of the Code of Criminal Procedure, 1973) has been filed on behalf of the petitioner seeking quashing of the Complaint Case No. 100/2024 filed under Section 3 read with 53 of



the Prohibition of Benami Property Transaction Act, 1988, setting aside of the cognizance and summoning order dated 3rd February, 2024 passed in the said complaint case as well as setting aside of the sanction dated 11th August, 2023.

4. Mr. Pahwa, learned senior counsel appearing on behalf of the petitioner submitted that the Court concerned has passed the impugned cognizance and summoning order dated 3rd February, 2024 without application of the judicial mind. While referring to the impugned order, the learned senior counsel submitted that the Court concerned has merely mentioned the following and no reasoning has been provided:

“..Submissions heard.

Issue notice of the complaint to the accused persons on filing of PF/RC/Speed post, returnable for next date of hearing.

Re-notify for further proceedings on 12th August, 2024..”

5. It is submitted that the matter was again listed on 12th August, 2024 before the Court concerned when the complainant therein was directed to file fresh address of the respondent nos. 2 & 3 therein along with the amended memo of parties. It is submitted that on 12th August, 2024, fresh summons were issued to the respondent nos. 2 and 3, subject to filing of fresh address and filling of PF, and the matter was fixed for 12th December, 2024 i.e., tomorrow. It is further submitted that the summons were served to the respondent nos. 2 and 3 i.e., on 8th July, 2024.

6. It is submitted that after perusing the impugned order, it is crystal clear that the Court concerned has not perused or taken into consideration any material on record and has passed the impugned order on the basis of the submissions made before it.



7. In view of the above facts and circumstances, it is submitted that there are no disputes which warrant issuance of summons against the petitioner as the same were issued by the Court concerned without application of judicial mind and thus, the impugned order deserves to be set aside.

8. Heard learned senior counsel appearing on behalf of the petitioner.

9. Issue notice. Learned senior standing counsel appearing on advance notice on behalf of the respondent department accepted notice and vehemently opposed the instant petition submitting to the effect that there are sufficient materials on record to establish that trial is warranted against the petitioner and therefore, the Court concerned has issued the summons after hearing the submissions of the department, however, he has not disputed the fact that there are no reasons assigned while issuing summons to the petitioner. He further prayed for four weeks' time to file reply.

10. Heard learned counsel appearing on behalf of the parties and perused the contents made in the instant petition.

11. In view of the above facts and circumstances, this Court is of the opinion that while passing the impugned order, neither the Court concerned has assigned any reasons, nor has it perused the documents placed before it in order to take cognizance and issue summons.

12. In view of the above facts and circumstances, the learned counsel appearing on behalf of the respondent department is directed to file reply within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

13. Taking into consideration the contentions advanced before this Court and the fact that no reasons have been assigned in the impugned order, this Court is of the considered view that the matter requires consideration.



Therefore, the impugned order dated 3rd February, 2024 shall remain stayed till the next date of hearing.

14. List on 29th January, 2025.

CHANDRA DHARI SINGH, J

DECEMBER 11, 2024

Rk/ryp

[Click here to check corrigendum, if any](#)