

ITEM NO.13

COURT NO.7

SECTION XIA

S U P R E M E            C O U R T   O F   I N D I A  
R E C O R D   O F   P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2012  
CC 6185/2012

(From the judgement and order dated 04/11/2011 in RSA No.500/2011  
of The HIGH COURT OF KERALA AT ERNAKULAM)

M.UMMAR Petitioner(s)

VERSUS

GOVT. OF INDIA & ORS. Respondent(s)

With I.A. 1 (c/delay in filing SLP and office report)

Date: 16/04/2012            This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s)            Ms. Bindu K. Nair, Adv.  
   Mr. Shaijan C. George, Adv.  
   Mr. Arun Krishnan, Adv.  
   Mr. V.K. Sidharthan, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

Ms. Bindu K. Nair, learned counsel for the petitioner, submits that the petitioner intends to approach the appellate authority under the provisions of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (for short, 'SAFEMA'). However, the findings recorded by the High Court may operate against the

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petitioner in that event.

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We have perused the judgment of the High Court. The High Court has noted that the question whether the property is that of the offender or not, whether that property was acquired by the offender and is liable for forfeiture are

all matters to be decided by the competent authority and an appeal is provided before the Appellate Tribunal by any aggrieved person. The High Court has further observed that if the case of the appellant is that the property which has been forfeited under Section 7 by Ext. B7 order is not the property of the offender, he has a right to prefer an appeal as provided under Section 12(4).

Since the petitioner is desirous of filing statutory appeal provided under Section 12(4) of SAFEMA, we observe that the observations made by the High Court in the impugned order shall not operate against the petitioner in consideration of the appeal by the appellate authority on merits.

With the above observations, special leave petition is disposed of.

(Rajesh Dham)  
Court Master

(Renu Diwan)  
Court Master