

IN THE SUPREME COURT OF INDIA  
INHERENT JURISDICTION

REVIEW PETITION (CRL.)NO.123 OF 2024

IN

CRIMINAL APPEAL NO.791 OF 2024

INDIABULLS HOUSING FINANCE LTD. & ORS.

... PETITIONERS

Versus

DIRECTORATE OF ENFORCEMENT & ORS.

... RESPONDENTS

WITH

D.NO.10324/2024

O R D E R

1. The application for permission to file the Review Petition is allowed.

2. We have heard learned Senior Counsel for the review-petitioners as well as learned Additional Solicitor General of India representing the Directorate of Enforcement (for short, 'E.D.') in support and against the prayer made in the Review Petition, seeking to recall/modify a part of para 15 of order dated 12.02.2024.

3. Para 15 of our order dated 12.02.2024 reads as follows:

"15. Having given our thoughtful consideration to the rival submissions, we do not deem it necessary to delve into the question of maintainability of these appeals. We say so for the reason that the appellant-ED has got efficacious alternative remedies traceable in law, to proceed against respondent nos.1 to 3 or any other person found to be involved in the alleged offences. The appellant-ED can, for such purpose,

initiate appropriate independent proceedings notwithstanding the impugned judgments rendered by the High Courts of Bombay and Delhi. It seems to us that the appellant-ED, besides any other remedy as may be available in law, can resort to two independent proceedings such as: (i) approaching the Judicial Magistrate under Section 156(3) of Cr.P.C.; (ii) filing a review petition before the High Court of Bombay to seek clarification of the impugned judgment to the extent that it shall have no effect on the rights of the appellant-ED."

4. The short grievance of the review-petitioners is that while granting liberty to the Directorate of Enforcement to avail two independent remedies, an impression has been created as if this Court has authoritatively held that a complaint at the instance of E.D. is maintainable before a Judicial Magistrate under Section 156(3) Cr.P.C. It is contended that such an intellection, if allowed to be gathered from the contents of para 15 of our order, as reproduced above, it would cause severe prejudice to the review-petitioners as they will be deprived of their right to oppose the very maintainability of such a complaint and/or to challenge the adverse order, if any, passed therein.

5. *Per contra*, Mr. S.V. Raju, learned Additional Solicitor General of India submits that in view of the decision of this Court in Vijay Madanlal Choudhary vs. Union of India & Ors. (2022 SCC Online SC 929) and connected matters, a complaint at the instance of ED is maintainable under Section 156 (3) Cr.P.C. He further points out that in para 17 of the order dated 12.02.2024, we have already clarified that the judicial forum will independently determine the maintainability of such proceedings without being influenced by the observations made in the orders which were under

challenge before us. He also refers to para 16 of the order dated 12.02.2024 to emphasise that liberty has already been granted to the review-petitioners to raise objection against maintainability of the proceedings, which ED has been permitted to initiate through para 15 of the said order.

6. Having heard learned Senior Counsel for the review-petitioners as well as learned Additional Solicitor General of India for the E.D. and keeping in mind the well settled principle that a Court order causes prejudice to none, we deem it appropriate to modify/clarify para 15 of the order dated 12.02.2024 to the extent that the said order shall not be construed to have held that a complaint under Section 156(3) Cr.P.C. is maintainable at the instance of E.D. Whether such a complaint is maintainable or not shall be decided by the court of competent jurisdiction in accordance with law. We have not expressed any opinion in relation thereto.

7. The aggrieved party thus shall be at liberty to have recourse to the appropriate remedy as may be permissible in law.

8. The Review Petitions stand disposed of accordingly.

9. As a result, the pending interlocutory application, if any, also stand disposed of.

.....J.  
(SURYA KANT)

.....J.  
(K.V. VISWANATHAN)

NEW DELHI;  
JULY 29, 2024.

ITEM NO.301

COURT NO.4

SECTION II-A

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

R.P.(CrI.) No.123/2024 in CrI.A. No.791/2024

INDIABULLS HOUSING FINANCE LTD. &amp; ORS.

Petitioner(s)

VERSUS

DIRECTORATE OF ENFORCEMENT &amp; ORS.

Respondent(s)

(FOR ADMISSION)

IA No. 160167/2024 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES

IA No. 159825/2024 - STAY APPLICATION)

WITH

Diary No(s).10324/2024 (II-C)IA No. 57318/2024 - APPLICATION FOR PERMISSION TO FILE REVIEW  
PETITION

Date : 29-07-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Puneet Bali, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Rishi Agrawala, Adv.  
Mr. Ankur Saigal, Adv.  
Ms. S. Lakshmi Iyer, Adv.  
Ms. Kajal Dalal, Adv.  
Mr. Aditya Soni, Adv.  
Mr. E. C. Agrawala, AOR

For Respondent(s) Mr. Suryaprakash V.Raju, A.S.G.  
Ms. Sairica Raju, Adv.  
Mr. Zoheb Hussain, Adv.  
Mr. Annam Venkatesh, Adv.  
Mr. Kanu Agrawal, Adv.  
Mr. Somiran Sharma, Adv.  
Mr. S.A.Haseeb, Adv.  
Mr. Arkaj Kumar, Adv.  
Ms. Deepabali Dutta, Adv.  
Ms. Aakriti Mishra, Adv.  
Mr. Arvind Kumar Sharma, AOR

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

1. The application for permission to file the Review Petition is allowed.
2. The Review Petitions stand disposed of in terms of the signed order.
3. As a result, the pending interlocutory application, if any, also stand disposed of.

(SATISH KUMAR YADAV)  
ADDITIONAL REGISTRAR

(PREETHI T.C.)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)