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

% *Date of Decision: 28.04.2026*

+ **LPA 296/2026, CM APPL. 26820/2026 & CM APPL. 26821/2026**

BHARATI SAHAKARI BANK LTD.Appellant

Through: Mr. Avi Singh, Senior Advocate along with Mr. Vehamra Mahaseth, Mr. Bhaskar Tripathi, Ms. Varuna Thakur, Ms. Gauri Pathak, Mr. Abhishek Singh & Ms. Nalinaksha, Advocates.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Amit Tiwari- CGSC along with Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Arpan Narwal, Mr. Kushagra Malik & Mr. Ujjwal Tyagi, Advocates for Respondent No.1/Union of India.
Mr. Zoheb Hossain, Advocate for ED.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

DEVENDRA KUMAR UPADHYAYA, CJ. (Oral)

1. Heard the learned Counsel for the Parties.
2. This *Intra-Court* Appeal seeks to take an exception to an order dated 17.03.2026 (“**Impugned Order**”) passed by the learned Single Judge in W.P.(C) 12692/2025 (“**Writ Petition**”) whereby the learned Single Judge has disposed of the Writ Petition with an observation that the Appellant will



have to challenge the order passed by the Adjudicating Authority (“**Authority**”) under Section 8 of the Prevention of Money Laundering Act, 2002 (“**PML Act**”) by way of availing the remedy of statutory appeal under the said Act.

3. The Writ Petition by the Appellant was preferred to challenge the Provisional Attachment Order (“**PAO**”) passed under Section 5 of the PML Act, 2002. While entertaining the Writ Petition, an interim order dated 01.09.2025 (“**Interim Order**”) was passed by the learned Single Judge that any order that may be passed by the Authority shall be subject to the outcome of the Writ Petition.

4. On the strength of the said Interim Order, it has been argued by learned Counsel for the Appellant that once the order which was to be passed by the Authority under Section 8 was made subject to the outcome of the Writ Petition, the Appellant ought not to have been relegated to the statutory remedy against an order of the Authority.

5. In his submission, the learned Counsel for the Appellant has stated that keeping in view what was provided for in the Interim Order, the validity of the order passed by the Authority ought to have been examined by the learned Single Judge instead of relegating the Appellant to avail the statutory remedy under the PML Act, 2002.

6. On the other hand, Mr. Zoheb Hossain learned Counsel representing the Respondents has argued that in the wake of availability of statutory and efficacious remedy of appeal under Section 26 of the PML Act, 2002, the learned Single Judge has disposed of the Writ Petition granting liberty to the Appellant to avail the said remedy and, therefore, the order under challenged herein does not warrant any interference by the Court in this Appeal.



7. He has further argued that, unless and until some extraordinary circumstances exist, ordinarily, the Writ Court should not entertain a writ petition if an equally efficacious statutory remedy of appeal is available and, therefore, the Impugned Order does not suffer from any error, and hence, no interference in this Appeal is called for.

8. It has also been argued that merely because while entertaining the Writ Petition, an Interim Order was passed on 01.09.2025, there is no legal compulsion for the Writ Court to decide the matter finally and not to relegate the Appellant to the statutory remedy of appeal.

9. We have given our anxious consideration to the competing submissions made by the learned Counsel for the Parties and have also gone through the records available before us on this *Intra-Court Appeal*.

10. It is needless to reiterate the settled principles of law on which a writ petition under Article 226 of the Constitution of India can be maintained or entertained. There cannot be any fetter which can be put even by the legislature on this Court's power of judicial review under Article 226 of the Constitution of India against any State action which is complained of. However, it is equally well-settled that while exercising the writ jurisdiction, the Writ Court has to be conscious of certain other legal principles such as maintainability of the Writ Petition in the given facts and circumstances of the case, availability of equally efficacious and a statutory remedy under the enactment concerned, *bonafide* of the person approaching the Writ Court, and the public interest element involved in the issue brought before the Court etc.

11. We have no difficulty in agreeing with the submission made by the learned Counsel for the Respondents that merely because the learned Single



Judge while entertaining the Writ Petition had passed initially an Interim Order on 01.09.2025, it will not be necessary for the learned Single Judge to decide the Writ Petition, giving a finding in respect of the order passed by the Authority, instead of relegating the Appellant to exercise its right of appeal under Section 26 of the PML Act, 2002.

12. Having said that, we find that in case an order in the nature of interim measure passed by the learned Single Judge on 01.09.2025, which makes any impending action or order to be taken or made by the State authorities to be subject to the outcome of the Writ Petition, ordinarily, the adjudication in respect of the legalities / illegality of the impending action or order needs to be made. However, this cannot be an absolute principle to be followed by the Writ Courts. In appropriate cases, the availability of a statutory appellate remedy under the enactment can be taken into account, and instead of adjudicating the issue finally, the Writ Court can relegate the Petitioner to invoke the remedy of statutory appeal.

13. If we examine the Impugned Order on the anvil of the aforesaid legal principles, what we find is that the learned Single Judge has relegated the Appellant to avail the statutory remedy of appeal under Section 26 of the PML Act, having regard to '*the nature of the adjudication which has taken place*'. What the learned Single Judge has referred to by using the said phrase is the kind of adjudication which may be reflected from reading of the order dated 09.09.2025 passed by the Authority under Section 8 of the PML Act, 2002.

14. We may also note that the very basis of instituting the Writ Petition by the Appellant was that in the facts of the case, the authority concerned lacked the jurisdiction to pass the PAO under Section 5 of the PML Act for



the reason that the subject property was mortgaged by the borrower, who is an accused in the PMLA criminal case and the said property became subject matter of proceedings by the Appellant-Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, pursuant to which the possession of the said property was with the Appellant. In these facts, the ground taken by the Appellant while instituting the Writ Petition before the learned Single Judge was that any order, even provisionally attaching property under Section 5 of PML Act, may be without jurisdiction. However, the learned Single Judge, in the wake of the availability of the statutory appellate remedy under Section 26, has, by the Impugned Order, relegated the Appellant to avail the said remedy, looking to the nature of adjudication which has taken place *vide* order of the Authority passed on 09.09.2025.

15. We may note that the learned Single Judge has not explicitly given a finding as to what impelled him not to exercise the discretionary jurisdiction under Article 226 of the Constitution of India and relegate the Appellant to avail the remedy of appeal as the Impugned Order does not elaborate as to what was the nature of adjudication which had taken place in the proceedings before the Adjudicating Authority, which persuaded the learned Single Judge to pass the Impugned Order.

16. For the reasons aforesaid, we allow the Appeal and set aside the Impugned Order dated 17.03.2026 passed by the learned Single Judge. The W.P.(C) 12692/2025 is restored to its original number. The learned Single Judge is requested to decide the Writ Petition afresh.

17. It is needless to say that all the issues and pleas which may be available to the Parties will be open to them to press in the proceedings of



the Writ Petition, which is now to be decided afresh under this order.

18. We may make it clear that once we have observed that all pleas to the Parties will be available to be pressed in the course of hearing of the Writ Petition, it would include the plea related to maintainability / entertainability of the writ petition as well. No order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

APRIL 28, 2026/ 'A'