



**IN THE SUPREME COURT OF INDIA  
INHERENT JURISDICTION**

**Review Petition (Civil) No 359 of 2023**  
**in**  
**Civil Appeal No 5783 of 2022**

**Union of India & Anr**

**...Petitioner(s)**

**Versus**

**M/s Ganpati Dealcom Pvt Ltd**

**...Respondent(s)**

**ORDER**

- 1 We have heard Mr Tushar Mehta, Solicitor General appearing on behalf of the Union of India, and Mr Ajay Vohra, senior counsel appearing on behalf of the respondent.
- 2 The review has been sought in these proceedings of the judgment of a three-Judge Bench of this Court in **Union of India and Another v Ganpati Dealcom Private Ltd**<sup>1</sup>. The only question which was framed for consideration by this Court was in the following terms:
  - “3. The short legal question which arises for this Court's consideration is whether the Prohibition of Benami Property Transactions Act, 1988 (for short “the 1988 Act”), as amended by the Benami Transactions (Prohibition) Amendment Act, 2016 (for short “the 2016 Act”) has a prospective effect. Although a purely legal question arises in this appeal, it is necessary to have a brief factual background in mind before we advert to the analysis.”

3 The conclusion which was arrived at by the Court, was in the following terms:

“127.1. Section 3(2) (*sic* Section 3) of the unamended 1988 Act is declared as unconstitutional for being manifestly arbitrary. Accordingly, Section 3(2) of the 2016 Act is also unconstitutional as it is violative of Article 20(1) of the Constitution.

127.2. In rem forfeiture provision under Section 5 of the unamended 1988 Act, prior to the 2016 Amendment Act, was unconstitutional for being manifestly arbitrary.

127.3. The 2016 Amendment Act was not merely procedural, rather, prescribed substantive provisions.

127.4. In rem forfeiture provision under Section 5 of the 2016 Act, being punitive in nature, can only be applied prospectively and not retroactively.

127.5. The authorities concerned cannot initiate or continue criminal prosecution or confiscation proceedings for transactions entered into prior to the coming into force of the 2016 Act viz. 25-10-2016. As a consequence of the above declaration, all such prosecutions or confiscation proceedings shall stand quashed.

127.6. As this Court is not concerned with the constitutionality of such independent forfeiture proceedings contemplated under the 2016 Amendment Act on the other grounds, the aforesaid questions are left open to be adjudicated in appropriate proceedings.”

4 The Court has declared Section 3(2) of the unamended provisions of the Prohibition of Benami Property Transactions Act 1988 as unconstitutional for being manifestly arbitrary and as violative of Article 20(1) of the Constitution. The provisions of Section 5 of the unamended Act, prior to the Amendment of 2016, have been declared to be unconstitutional on the ground that they are manifestly arbitrary.

5 It is not disputed that there was no challenge to the constitutional validity of the unamended provisions. This is also clear from the formulation of the question

which arose for consideration before the Bench in paragraph 3 of the judgment, which has been extracted above. In the submissions of parties which have been recorded in the judgment, the issue of constitutional validity was not squarely addressed.

- 6 A challenge to the constitutional validity of a statutory provision cannot be adjudicated upon in the absence of a lis and contest between the parties. We accordingly allow the review petition and recall the judgment dated 23 August 2022. Civil Appeal No 5783 of 2022 shall stand restored to file for fresh adjudication before a Bench to be nominated by the Chief Justice of India on the administrative side.
- 7 Where any other proceedings have been disposed of by relying on the judgment of this Court in **Ganpati Dealcom Private Ltd** (supra), liberty is granted to the aggrieved party to seek a review in view of the present judgment.
- 8 Pending application, if any, stands disposed of.

.....CJI.  
[Dr Dhananjaya Y Chandrachud]

.....J.  
[Pamidighantam Sri Narasimha]

.....J.  
[Manoj Misra]

New Delhi;  
October 18, 2024  
-S-

ITEM NO.301

COURT NO.1

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

R.P.(C) No. 359/2023 in C.A. No. 5783/2022

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

M/S. GANPATI DEALCOM PVT. LTD.

Respondent(s)

(WITH IA No. 17066/2023 - EARLY HEARING APPLICATION, IA No. 163121/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 163115/2022 - STAY APPLICATION)

WITH

SLP(C) No. 15079/2024 (XII)

(FOR ADMISSION and I.R. and IA No.139136/2024-CONDONATION OF DELAY IN FILING and IA No.139137/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 17573/2024 (XIV)

(FOR ADMISSION and I.R. and IA No.133559/2024-CONDONATION OF DELAY IN FILING and IA No.133560/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 14897/2024 (III)

(WITH IA No.131794/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 131794/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 14898/2024 (III)

(WITH IA No.139622/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 139622/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 27030/2024 (III)

(WITH IA No.187819/2024-CONDONATION OF DELAY IN FILING and IA No.187821/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.187820/2024-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Diary No(s). 29027/2024 (III)

(FOR ADMISSION and I.R. and IA No.163374/2024-CONDONATION OF DELAY IN FILING and IA No.163375/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 32360/2024 (III)

(WITH IA No.186219/2024-CONDONATION OF DELAY IN FILING and IA No.186214/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 33397/2024 (III)

(FOR ADMISSION and I.R. and IA No.192799/2024-CONDONATION OF DELAY IN FILING and IA No.192800/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 22369/2024 (XII)

(WITH IA No.208197/2024-CONDONATION OF DELAY IN FILING and IA No.208196/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 38691/2024 (XII)

(WITH IA No.225956/2024-CONDONATION OF DELAY IN FILING and IA No.225957/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 39495/2024 (III)

(WITH IA No.222694/2024-CONDONATION OF DELAY IN FILING and IA No.222693/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 39919/2024 (III)

(WITH IA No.230170/2024-CONDONATION OF DELAY IN FILING and IA No.230171/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40165/2024 (XII)

(WITH IA No.220601/2024-CONDONATION OF DELAY IN FILING and IA No.220600/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40204/2024 (XII)

(WITH IA No.226097/2024-CONDONATION OF DELAY IN FILING and IA No.226098/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40208/2024 (XII)

(WITH IA No.217588/2024-CONDONATION OF DELAY IN FILING and IA No.217589/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40209/2024 (XII)

(WITH IA No.224078/2024-CONDONATION OF DELAY IN FILING and IA No.224079/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40212/2024 (XII)

(WITH IA No. 229940/2024 - CONDONATION OF DELAY IN FILING, IA No. 229942/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40627/2024 (III)

(WITH IA No.214801/2024-CONDONATION OF DELAY IN FILING and IA No.214796/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 40707/2024 (XII)

(WITH IA No.226347/2024-CONDONATION OF DELAY IN FILING and IA

**No.226348/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**Diary No(s). 40913/2024 (XII)**

**(WITH IA No.220124/2024-CONDONATION OF DELAY IN FILING and IA No.220125/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**Diary No(s). 41598/2024 (XII)**

**(WITH IA No. 231878/2024 - CONDONATION OF DELAY IN FILING, IA No. 231879/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**Diary No(s). 44254/2024 (XII)**

**(WITH IA No. 230517/2024 - CONDONATION OF DELAY IN FILING, IA No. 230516/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

**Date : 18-10-2024 These matters were called on for hearing today.**

**CORAM :**

**HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE MANOJ MISRA**

**For Petitioner(s)**      **Mr. Tushar Mehta, Solicitor General  
Mr. Suryaprakash V Raju, A.S.G.  
Mr. Vikramjit Bannerjee, Adv.  
Mr. Siddharth Sinha, Adv.  
Mr. Zoheb Hussain, Adv.  
Mr. S A Haseeb, Adv.  
Mrs. Aakansha Kaul, Adv.  
Mr. Bhuvan Mishra, Adv.  
Mr. Ritwiz Rishabh, Adv.  
Mr. Kanu Agarwal, Adv.  
Mr. Raj Bahadur Yadav, AOR**

**For Respondent(s)**      **Mr. Ajay Vohra, Sr. Adv.  
Mr. Ankit Anandraj Shah, AOR  
Mr. Aniket, Adv.  
Ms. Bhoomija Verma, Adv.  
Mr. Abhimanyu Singh, Adv.**

**Mr. Shantanu Singh, Adv.  
Mr. Ravi Sehgal, Adv.  
Mr. Pai Amit, AOR**

**Ms. Manisha T Karia, Sr. Adv.  
Mr. Deepin Deepak Sahni, Adv.  
Ms. Ananya Arora, Adv.  
Ms. Shreya Gupta, Adv.  
Mr. Anandh K, Adv.  
Ms. Iyer Shruti Gopal, AOR**

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

- 1 The review petition is allowed in terms of the signed order and the judgment dated 23 August 2022 is recalled. Civil Appeal No 5783 of 2022 shall stand restored to file for fresh adjudication before a Bench to be nominated by the Chief Justice of India on the administrative side.
- 2 Pending application, if any, stands disposed of.

**Special Leave Petitions**

- 1 Some Special Leave Petitions have been directed to be tagged with the Review Petition.
- 2 Delay is condoned and notice is issued in those Special Leave Petitions.
- 3 Tag all the Special Leave Petitions with Civil Appeal No 5783 of 2022, which has been restored to file by an order passed today in Review Petition (Civil) No 359 of 2023.

**(SANJAY KUMAR-I)  
ADDITIONAL REGISTRAR**

**(Signed order is placed on the file)**

**(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR**