IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO. 16599 OF 2025

1. **Zaibunissa Ebrahim Khan**
An adult Indian Inhabitant of Mumbai, Aged about 77 years, Residing at Flat No. 405, 406 situated at Baug-e-Rehmat CHSL, Building No.16B, Kapadia Nagar, CST Road, Kurla (West), Mumbai - 400 070.

2. **Junaid Ebrahim Khan**
An adult Indian Inhabitant of Mumbai, Aged about 43 years, Residing at Flat No. 1001, situated at 10th Floor Diago CHSL, D Wing, Rizvi Complex, Sherley Ranjan Road, Bandra (West), Mumbai - 400 050.

3. **Faizal Ebrahim Khan**
An adult Indian Inhabitant of Mumbai, Aged about 51 years, Through his Power of Attorney Holder,

Junaid Ebrahim Khan
Residing at Flat No.1001, situated at 10th Floor Diago CHSL, D Wing, Rizvi Complex, Sherley Ranjan Road Bandra (West), Mumbai - 400 050.

4. Imran Ebrahim Khan
An adult Indian Inhabitant of Mumbai, Aged about 52 years, Residing at Flat No. 1001, situated at 10th Floor Diago CHSL, D Wing, Rizvi Complex, Sherley Ranjan Road Bandra (West), Mumbai - 400 050.

5. Afzal Ebrahim Khan
An adult Indian Inhabitant of Mumbai, Aged about 51 years, Residing at Flat No. 1001, situated at 10th Floor Diago CHSL, D Wing, Rizvi Complex, Sherley Ranjan Road Bandra (West),
Mumbai - 400 050. .. Petitioners

Versus

1. The Competent Authority
SAFEMA/NDPS,
Mittal Court, C Wing, 3rd Floor, Nariman Point,
Mumbai - 400 021.

2. Central Bureau of Investigation,
13th Floor, Plot No. C - 35 A, 'G' Block, Bandra Kurla Complex, Bandra (East), Near MTNL Exchange,
Mumbai - 400 098.

3. The State of Maharashtra,
Through Government Pleader,
High Court,
Fort,

Mumbai - 400 001. .. Respondents

Dr. Sujay Kantawala a/w. Mr. Mohammed Zain Khan, Ms. Aishwarya Kantawala, Ms. Khyati Daga, Sumas Patel, Mr. Ashraf Kapoor and Mr. Danish Ansari i/b. One Legal, Advocates, for the Petitioners

Ms. Manisha Jagtap a/w Ms. Mansi Joshi, Advocate, for the Respondent No. 1

Mr. Amit Munde, Spl. PP, for CBI/Respondent No. 2

Mr. Mayur S. Sonavane, APP, for the State - Respondent No. 3

CORAM	**:**	**RAVINDRA V. GHUGE AND GAUTAM A. ANKHAD, JJ.**
RESERVED ON	**:**	**13th AUGUST, 2025**
PRONOUNCED ON	**:**	**3rd SEPTEMBER, 2025**

JUDGMENT (PER : GAUTAM A. ANKHAD, J.)

1. Rule. Rule is made returnable forthwith and heard finally with the consent of the parties.

2. The Petitioners have filed the present Petition seeking the following reliefs:

a) This Hon'ble Court be pleased to declare that the Forfeiture Order dated 28th September 1993 passed under section 7 of SAFEMA and the release of the said Flats by the designated TADA Court to the Central Government through the Competent Authority from the Court Receiver, High Court, Bombay vide Order dated 26th March 2025 is not applicable to them, non-est and the said Flat qua Petitioners are not forfeited by the order dated 28th September 1993;

b) This Hon'ble Court in pursuance of prayer clause(a) be pleased to issue a writ in a nature of Mandamus thereby restraining the Respondents from in any manner acting on the Orders dated 28th September 1993 and 26th March 2025 i.e. taking any coercive action in respect of the said Flats, taking the possession of the same as provided under section 19 of SAFEMA or sale of the said Flats as provided under SAFEMA;

c) This Hon'ble Court during the pendency of the present petition, the effect, implementation and execution of the Orders dated 28th September 1993 and 26th March 2025 be stayed to pass an order restraining the Respondents from in any manner acting on the Orders dated 28th September 1993 and 26th March 2025 i.e. taking any coercive action in respect of the said Flats, taking the possession of the same as provided under section 19 of SAFEMA or sale of the said Flats as provided under SAFEMA.

3. Briefly stated, the facts of the case are as follows:

i) In 1980, Abdul Razak Suleman Memon purported to purchase flat no. 405 and his wife, Mrs. Hanifa Memon, purchased flat no. 406 from M/s. Deepak Builders Pvt. Ltd ("**flats**"). These flats are situated in

Baug-e-Rehmat Co-operative Housing Society Ltd., Kurla, Mumbai.

ii) The Petitioners claim that Hanifa Memon transferred flat No. 406 to her daughter-in-law, Reshma Memon, though no documents evidencing the transfer is available on record.

iii) In January 1992, Abdul Razak Memon and his daughter-in-law Reshma Memon purported to transfer flat nos. 405 and 406 to the Petitioner and her late husband for a consideration of ₹ 6,75,000/-. Petitioner No. 1 claims that the bulk of the consideration was paid by her and her husband to the Memons, and has annexed certain bank transactions to substantiate the payments. However, registered Sale Deed evidencing the transfer of the flats from the Memons to the Petitioner and her husband exists.

iv) On 3rd October 1992, a detention Order passed by the Government of Maharashtra under Section 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 ("**COFEPOSA"**) against Ibrahim Abdul Razak Memon alias Tiger Memon. He is the son of Abdul Razak Memon and Hanifa Memon.

v) On 13th August 1993, a joint show-cause notice under Section 6(1) of the Smugglers And Foreign Exchange Manipulators (Forfeiture Of

Property) Act, 1976 ("**SAFEMA"**) for forfeiture several properties including the said flats, was issued to Tiger Memon, his wife, his parents, his brothers, his brothers' wives and associates. The notice recorded that there were reasons to believe that the properties were illegally acquired properties of Tiger Memon, his relatives and associates and covered by Sections 2(2)(c) and 2(2)(d) of the SAFEMA. They were called upon to disclose their known sources of income and produce documents establishing ownership. The notice required them to show cause why the properties should not be forfeited to the Central Government under Section 7 of the SAFEMA. The notice records Abdul Razak Memon and his daughter-in-law Reshma Memon as the holders of the said flats, but the same in occupation of one Ibrahim Mohd Khan - the Petitioner's deceased husband and also the brother in law of Abdul Razak Memon.

vi) On 28th September 1993, the Competent Authority passed an Order under Section 7 of the SAFEMA, directing forfeiture of the properties including the said flats ("**Impugned Order**"). This Order was challenged by Abdul Razak Memon and Hanifa Memon as well as several other members/relatives of Tiger Memon before the Appellate

Tribunal for Forfeited Property, New Delhi constituted under SAFEMA (**"Appellate Tribunal"**).

vii) Meanwhile, on 12th March 1993, serial bomb blasts occurred in Mumbai, in which Tiger Memon was named as an Accused. Thereafter, Tiger Memon, his parents - Abdul Razak Memon and Hanifa Memon, Reshma Memon and others were declared absconding terrorists under Section 8(3)(a) of the TADA Act. On 7th October 1993, the Designated TADA Court issued a show-cause notice in Notice No. 623 of 1993 in TADA SPL. R.A. No. 34 of 1993 to the Petitioner's deceased husband as an occupant of the said flats, calling upon him to explain why several properties including flats should not be vacated from him. On 14th January 1994, the TADA Court by its Order attached the said flats along with other properties of the Memon family. The Court Receiver, High Court Bombay, was appointed as a receiver of the attached properties.

viii) Petitioner No. 1 and her husband continued to remain in possession of the flats as agents of the Receiver. They claim to have paid royalty of ₹ 2,000/- per month from 1994 until 2008. The Petitioner's husband also issued public notices in four newspapers declaring that they had

purchased the flats in 1992 and are in exclusive possession of the flats.

ix) On 4th November 1999, the Appellate Tribunal rejected all the Appeals filed by Abdul Razak Memon and Hanifa Memon, along with companion appeals filed by other members of the Memon family. Subsequently, one Rahim Yakub Memon challenged the Appellate Tribunal's Order by filing Criminal Writ Petition No. 1442 of 2000 before this Court. On 24th March 2005, the Writ Petition was dismissed for non-prosecution, and the interim Orders stood vacated (This material fact is suppressed by the Petitioners in the Petition).

x) On 17th July 2008, on an Application filed by the Petitioner's husband, the TADA Court passed a detailed order revoking attachment in respect of flat no. 405, while rejecting the prayer to lift attachment on flat no. 406. Thus, flat no. 405 stood vested in the Central Government, whilst the attachment continued for flat No. 406.

xi) On 26th March 2025, the TADA Court lifted the attachment for several properties including for flat no. 406 and released them in favour of the Central Government. The Court Receiver, High Court, Bombay, was discharged, and the possession was ordered to the Central Government through Respondent No.1. On 9th April 2025, the Court Receiver handed

over symbolic possession of the flat no. 406 to Respondent No.1. Against this backdrop, on 25th June 2025, the present Petition has been filed challenging the Impugned Order of forfeiture dated 28th September, 1993 passed under section 7 of the SAFEMA.

xii) Thereafter, by its notices dated 2nd July 2025, Respondent No.1 called upon the Petitioners to hand over physical possession of both the flats forfeited under Section 7 of SAFEMA vide its Impugned Order of forfeiture dated 28th September, 1993. Respondent No.1 granted the Petitioner 30 days' time to hand over peaceful and vacant possession of the flats, which period expired on 2nd August, 2025.

4. Shri Kantawala, learned Counsel for the Petitioners, anchored his submissions on the following propositions :-

(i) Petitioner No.1 has purchased the flats from Abdul Razak Memon and Hanifa Memon in 1992 for valuable consideration. She and her deceased husband are *bona fide* purchasers. Their bank statements show the payment of consideration towards the purchase of the flats. The Petitioners have, continuously paid utility bills and maintenance charges as owners of the property. This is in furtherance of their status as owner. The only pending

formality was an execution of a stamped and registered instrument to complete the transaction;

(ii) The Impugned Order violates the principles of natural justice, as neither a show-cause notice nor an opportunity of hearing has been given to the Petitioners. She is now residing in the flat since last 33 years and cannot be deprived of her property without a due process. She ought to be given an opportunity to prove her claims as an owner or as or a "*holder*" of the flats under Section 2(2)(e) of the SAFEMA. Reliance was placed on ***Attorney General for India v. Amratlal Prajivandas & Ors., (1994) 5 SCC 54, and Income Tax Officer & Anr. v. V. Mohan & Anr., (Civil Appeal nos. 8292-8293 of 2010)***, to contend that a holder of property under SAFEMA is entitled to a notice and hearing before any order of forfeiture is passed under Section 7 of the Act; and

(iii) The Competent Authority has failed to produce any evidence to show that the property was acquired through unlawful means. The Impugned Order is contrary to the provisions of SAFEMA and ought to be set aside.

5. Ms. Jagtap, learned Advocate for Respondent No.1 (Competent Authority), opposed the grant of reliefs. She submitted that :

(i) The Petitioners cannot be regarded as bona fide purchasers for valuable consideration, as no registered Sale Deed exists in their favour. There is no document evidencing transfer of flat no. 406 from Hanifa Memon to Reshma, nor from Reshma to Petitioner No.1. Similarly, there is no document showing transfer of flat no.405 from Abdul Razak Memon to the Petitioners. The utility bills and maintenance receipts cannot confer ownership rights. Further, the Petitioners have not instituted any Civil proceedings to establish their title to the property. They do not have any rights, title or interest in the flats.

(ii) Prior to the Bombay bomb blasts, a detention Order under Section 3(1) of the COFEPOSA was issued against Tiger Memon. Thereafter, a show-cause notice dated 13th August, 1993 under SAFEMA was issued to several members of the Memon family, including Abdul Razak Memon and Hanifa Memon. This culminated in the Impugned Order dated 28th September, 1993 directing forfeiture, which has now attained finality. Due process of law was followed prior to the issuance of the Impugned Order. The challenges to the Impugned Order have also failed. There is no violation of any principles of natural justice.

(iii) The TADA Court has also considered the Petitioners claims of alleged ownership and rejected the same by a reasoned Order of 14th January, 1994. It ordered the attachment of the flats and appointed a Court Receiver. Ultimately, Flat No.405 was released from attachment by Order dated 17th July 2008, and Flat No.406 by Order dated 26th March, 2025. This demonstrates that due process of law was followed. The notice dated 2nd July, 2025 seeking physical possession is merely a consequence of the Impugned Order dated 28th September 1993. The delay in issuing the possession notice after the Impugned Order is attributable to the pendency of attachment proceedings before the TADA Court. Accordingly, the Petition deserves to be dismissed with costs.

6. Shri Amit Munde, learned Counsel for Respondent No.2 (CBI) adopted the arguments of Ms. Jagtap, and submitted that the Petition ought to be dismissed.

Reasons and conclusions :

7. We have heard the learned Counsels for the parties and perused the written submissions and compilations tendered by the parties in these proceedings. We are not reiterating the facts which have been stated above.

8. Before addressing the merits, we note that the Petitioners have suppressed a material fact, namely, that the erstwhile owners, Abdul Razak Memon and Hanifa Memon, had already challenged the Impugned Order before the Appellate Tribunal as well as before this Court. The Appellate Tribunal rejected their challenge on merits, and a further challenge by one of the other member of Memon family by way of Criminal Writ Petition before this Court was dismissed for want of prosecution. The defences raised by the Memons thus stand negatived by judicial findings, and the Impugned Order stands confirmed. The Memons had failed to establish that the flats in question were not illegally acquired property. In our view, this fact, being of vital significance, ought to have been disclosed while seeking relief under Article 226 of the Constitution of India. It is well settled law, as held in ***Bhaskar Laxman Jadhav v. Karamveer Kakasaheb Wagh Education Society [(2013) 11 SCC 531]*** and ***Kishore Samrite v. State of U.P. [(2013) 2 SCC 398],*** that a litigant, who suppressed the material facts, is not entitled to any

relief. It is not open to the Petitioners to decide unilaterally, which facts are material and which are not. Full and fair disclosure is a prerequisite to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. On this ground alone, the Petition is liable to be dismissed. Nevertheless, since we have heard learned Counsel on merits, and upon due consideration thereof, we also find that the Petition is devoid of merit on several other grounds.

9. The provisions of the SAFEMA extend to any property acquired by persons falling within clauses (a) to (e) of Section 2(2), whether such acquisition is prior or subsequent to its commencement, and whether wholly or partly out of, or by means of, income, earnings or assets derived from, or attributable to, any activity prohibited by law. However, Section 2(2)(e) carves out an exception in respect of a holder of property, who is able to establish, that he is a transferee in good faith and for adequate consideration. The issues that arise for our determination in the present case are :-

(i) Whether the Petitioners have validly purchased the flats;

(ii) Whether the Petitioners are transferees in good faith and for adequate

consideration, so as to be entitled to protection as 'holders' under Section 2(2)(e) of SAFEMA;

(iii) Whether the Petitioners are entitled to an opportunity to establish the same, either before Respondent No. 1 or before a Civil Court.

For the reasons stated below, we find that the Petitioners have not proved any of the above questions.

Point no. (i) -

10. Abdul Razak Memon and Hanifa Memon were the original owners of both flats. Admittedly, they did not execute any stamped or registered transfer deeds in favour of Reshma Memon or the Petitioners. Section 54 of the Transfer of Property Act, 1882 mandates that the sale of immovable property of the value of one hundred rupees and above can be effected only by a registered instrument. The expression "only" in the section is of significance, as such transfer is valid and legal solely upon execution of a registered instrument. In the present case, no such instrument exists. In our view, the Petitioners cannot claim right, title or interest in the flats, and cannot be regarded as their owners. If they are not owners, they cannot assert any vested right to remain in possession.

Point no. (ii)

11. 'Good faith' postulates due inquiry and reasonable care to ascertain that transferor has the power to make the transfer. Since there is no valid purchase of the flats, in our view, the Petitioners cannot be considered as transferees in good faith or valuable consideration. The Petitioners also cannot claim to be a holder under Section 2(2)(e) under the SAFEMA merely because they have been paying royalty to the Court Receiver, during the time when the Receiver was in possession of the property. The payment of utility or maintenance bills also does not create any rights, title or interest in favour of the Petitioners. The bank statements do not prove the purchase of the flats or the Petitioners' status as transferees in good faith.

12. We find that the Petitioner's reliance on the Judgment in ***Amratlal Prajivandas (Supra)*** to claim that a holder of property is entitled to a notice and hearing before any forfeiture order under Section 7 is passed, is entirely misplaced. Firstly, the Judgment applies to a holder, who is a transferee in good faith and for adequate consideration. That is not in the present case, as held above by us. Secondly, the Judgment holds that SAFEMA

is directed towards forfeiture of "illegally acquired properties" of the convict or detenu. Such a person cannot claim those properties and must surrender them to the State under the Act. The Memons are designated as terrorists by the TADA Court. Their properties have been forfeited. At the initial part of paragraph 44, while dealing with the question, whether the definition of "illegally acquired property" in Section 3(1)(c) is violative of fundamental rights, the Hon'ble Supreme Court has held that

> *"44. ....SAFEMA is directed towards forfeiture of "illegally acquired properties" of a person falling under clause (a) or clause (b) of Section 2(2). The relatives and associates are brought in only for the purpose of ensuring that the illegally acquired properties of the convict or detenu, acquired or kept in their names, do not escape the net of the Act. It is a well-known fact that persons indulging in illegal activities screen the properties acquired from such illegal activity in the names of their relatives and associates. Sometimes they transfer such properties to them, may be, with an intent to transfer the ownership and title In fact, it is immaterial how such relative or associate holds the properties of convict/detenu – whether as a benami or as a mere name-lender or as a bona fide transferee for value or in any other manner. He cannot claim those properties and must surrender them to the State under the Act. Since he is a relative or associate, as defined by the Act, he cannot put forward any defence once it is proved that that property was acquired by the detenu – whether in his own name or in the name of his relatives and associates. It is to counteract the*

several devices that are or may be adopted by persons mentioned in clauses (a) and (b) of Section 2(2) that their relatives and associates mentioned in clauses (c) and (d) of the said sub-section are also brought within the purview of the Act. The fact of their holding or possessing the properties of convict/detenu furnishes the link between the convict/detenu and his relatives and associates. Only the properties of the convict/detenu are sought to be forfeited, wherever they are. The idea is to reach his properties in whosoever's name they are kept or by whosoever they are held. The independent properties of relatives and friends, which are not traceable to the convict/detenu, are not sought to be forfeited nor are they within the purview of SAFEMA.

…….The idea is not to forfeit the independent properties of such relatives or associates which they may have acquired illegally <u>but only to reach the properties of the convict/detenu or properties traceable to him, wherever they are, ignoring all the transactions with respect to those properties.</u> By way of illustration, take a case where a convict/detenu purchases a property in the name of his relative or associate — it does not matter whether he intends such a person to be a mere name-lender or whether he really intends that such person shall be the real owner and/or possessor thereof — <u>or gifts away or otherwise transfers his properties in favour of any of his relatives or associates, or purports to sell them to any of his relatives or associates — in all such cases, all the said transactions will be ignored</u> and the properties forfeited unless the convict/detenu or his relative/associate, as the case may be, establishes that such property or properties are not "illegally acquired properties" within the meaning of Section 3(c)."

It is thus authoritatively laid down that the intent of SAFEMA is to acquire "illegally acquired properties" of the convict and not independent properties of the relatives or the holder. The aim is to reach the properties of the convict traceable to him, where ever they are, by ignoring all the transactions with respect to it. In our view, the Judgment in ***Amratlal Prajivandas*** is of no assistance to the Petitioners. The Petitioners had an opportunity to prove that the flats are not illegally acquired property of the Memons, but failed on merits before the TADA Court. Equally the Judgment in ***V. Mohan***. ***(Supra)*** has no application in the present case. The issue therein was whether it is mandatory to serve a primary notice under Section 6(1) of the 1976 Act upon such convict with copy thereof to his relatives under Section 6(2) of the 1976 Act, and whether non-service of such primary notice upon the convict would vitiate the entire proceedings initiated only against his relatives. That is not the case here. Further, the Memons have not only responded to the show-cause notice, but all their challenges to the Impugned Order of forfeiture have failed. The Petitioners are claiming under the holder category and not relatives. They cannot now seek a second bite at the cherry by demanding a fresh notice under SAFEMA.

Point no. (iii)

13. It was strenuously urged by Mr. Kantawala that, assuming all else fails, his clients are nevertheless entitled to a show-cause notice and a hearing before Respondent No. 1, on the ground that they have been in possession of the flats for the last 33 years. It was contended that to dispossess the Petitioners without affording them such an opportunity, either before Respondent No. 1 or a Civil Court, would be both illegal and unfair. We are unable to accept this submission. There is no violation of the principles of natural justice in the present case. The record demonstrates that Respondent No. 1 duly followed the procedure prescribed under SAFEMA and fully complied with the requirements of natural justice before passing the Impugned Order. A show-cause notice dated 13th August, 1993 was issued by Respondent No. 1 to the original owners, Abdul Razak Memon and Hanifa Memon, who were granted an opportunity of hearing. Thereafter, the Impugned Order was passed. The Appeal preferred by the Memons was dismissed by the Appellate Tribunal on 4th November, 1999 and a further challenge by this Court on 24th March, 2005. The Impugned Order has thus attained finality. Accordingly, we find that all facts of Natural Justice were complied with by Respondent

No. 1 while dealing with the Memons.

14. To claim a fresh notice/hearing for the Petitioners, Mr. Kantawala stressed on the latter part of paragraph 44, which is quoted as follows:

> ***"44.*** *...So far as the holders (not being relatives and associates) mentioned in Section 2(2)(e) are concerned, they are dealt with on a separate footing. If such person proves that he is a transferee in good faith for consideration, his property — even though purchased from a convict/detenu — is not liable to be forfeited. It is equally necessary to reiterate that the burden of establishing that the properties mentioned in the show-cause notice issued under Section 6, and which are held on that date by a relative or an associate of the convict/detenu, are not the illegally acquired properties of the convict/detenu, lies upon such relative/associate. He must establish that the said property has not been acquired with the monies or assets provided by the detenu/convict or that they in fact did not or do not belong to such detenu/convict.* (Emphasised by us) *We do not think that Parliament ever intended to say that the properties of all the relatives and associates, may be illegally acquired, will be forfeited just because they happen to be the relatives or associates of the convict/detenu. There ought to be the connecting link between those properties and the convict/detenu, the burden of disproving which, as mentioned above, is upon the relative/associate. In this view of the matter, the apprehension and contention of the petitioners in this behalf must be held to be based upon a mistaken premise. The bringing in of the relatives and associates or of the persons mentioned in clause (e) of*

Section 2(2) is thus neither discriminatory nor incompetent apart from the protection of Article 31-B."

15. In our view, even this does not assist the Petitioners. The underlined portion of paragraph 44 makes it clear that the holder must prove that he is a transferee in good faith for consideration. The burden of establishing that the flats are not the illegally acquired properties of Tiger Memon, lies upon the Petitioners. They must establish that the said flats have not been acquired with the monies or assets provided by Tiger Memon. The Petitioners have failed to do so in the present case. Further, the TADA Court has held that the Petitioners are relatives of the Memons by virtue of the marriage within the family. This finding of fact has not been assailed. In our view, the Petitioners are not entitled to any fresh notice. In any case, this ratio does not confer upon a holder any independent right to demand a notice and hearing under SAFEMA, particularly after the challenge to the Impugned Order by the Memons has already been dismissed by the Appellate Tribunal and by this Court.

16. As regards a Civil suit, it is evident that the Petitioners were aware of the forfeiture Order passed in 1993. Yet, neither she nor her deceased husband took any steps to assert ownership rights or seek a declaration of title against the Memons, whether by way of a Civil suit or otherwise. It is inconceivable that a *bona fide* purchaser for value would remain silent and refrain from asserting such rights for over three decades. They have neither demanded specific performance nor refund of monies from the Memons. It is also not the case that the Petitioners were unaware of their civil remedies. The TADA Court, after issuance of a show-cause notice, had attached several properties including the suit flats. By a reasoned Order dated 17th August 2008, the TADA Court specifically dealt with the Petitioners' alleged claim of title. That order records that although Petitioner No. 1 and her husband were in possession of the flats, there was nothing to demonstrate any sale in her favour. The TADA Court further observed that whether such possession was referable to a purchase under Section 53-A of the Transfer of Property Act, 1882, by way of part performance, or merely in the capacity of a caretaker, was an issue left open to be decided by the Civil Court, if a suit was instituted. Despite this clear opportunity, the Petitioners did not initiate any civil proceedings. No explanation is forthcoming for such glaring inaction. The Petitioners were

probably conscious that she has no rights in the flats. It is therefore not open to her to invoke natural justice or seek indulgence from this Court, under writ jurisdiction, to now file a Civil suit. In our view, even if such a suit were to be filed today, it would not only be hopelessly barred by limitation, but also hit by Section 4 of SAFEMA.

17. We also note that the Competent Authority has already undergone one full round of litigation with the original owners, the Memons. Respondent No. 1 cannot be compelled to undertake yet another round of notice and hearing merely because an occupant claims to have remained in possession for the last 33 years. Acceptance of such an argument would lead to endless litigation, as every new occupant could be set up to reopen the entire process afresh. Such a construction would defeat the very object of SAFEMA and cannot be countenanced. Moreover, it would, in effect, amount to sitting in appeal over or reviewing findings of facts already recorded by the SAFEMA Appellate Tribunal and/or by a Co-ordinate Bench of this Court, which is impermissible in writ jurisdiction.

18. For all the above reasons, we find no merit in the Petition. In our view, no prejudice is caused to the Petitioners either by the Impugned Order or Respondent No.1's notice dated 2nd July, 2025 directing the Petitioners to hand over physical possession of the flats within 30 days. The TADA Court has also held that the Petitioner and her late husband are relatives of the Tiger Memon. The Memons have been heard at every stage. It is not open to the Petitioners to now agitate a cause on behalf of its relatives. The said notice is only a consequence of the Impugned Order dated 28th September, 1993. There is nothing illegal about it.

19. In view of the above, the Petition is dismissed. Rule is discharged. There shall be no order as to costs.

20. At the pronouncement of this Judgment, Shri Kantawala seeks a stay of its operation for a period of four weeks. The prayer is rejected, as the Petitioners have suppressed material facts, and also since 1993, there is no stay in the operation of the Impugned Order.

[GAUTAM A. ANKHAD, J.] **[RAVINDRA V. GHUGE, J.]**