

Plots attached, top builder challenges Benami Act rules

A group company of construction giant Shapoorji Pallonji has approached the Bombay high court to challenge orders of provisional attachment of properties in Raigad district - Pen, Panvel and Alibaug - and flats in Mumbai that it said were owned by it but which the authorities were treating as the benami assets of a former deputy collector, Nitish Thakur.

The company said the properties were purchased with its money by its land aggregator, Nilesh Thakur, appointed in 2007. Nilesh is the brother of Nitish Thakur.

It has questioned the constitutional validity of the Prohibition of Benami Property Transaction Act, amended in 2016, over its retrospective application to transactions going back to the inception of the act in 1988.

The company said the properties were purchased by Nilesh and his firm PRS Enterprises and with money it had advanced him through cheque payments between 2008 and 2010, transactions which the Income Tax Appellate Authority had twice held to be genuine — once in 2015 and again in 2017. The company contended that the issue, thus, could not be reopened and so the Benami Act proceedings were contrary to the ITAT orders.

Nitish is facing cases of disproportionate assets.

The company said the provisional attachment order issued last December and its continuation order issued in March by authorities under the Benami Act were “illegal, without jurisdiction, misconceived and absolutely arbitrary” and “in gross violation of principles of natural justice” as it was not heard.

The company’s counsel Milind Sathe said the properties could not be treated as ‘benami’ as they were purchased under an agreement as business assets from original land owners, with company monies. He also said the Benami Act could not be applied retrospectively to transactions prior to 2016. The high court adjourned the matter to January 15 for further hearing.

(Economic Times)