

MOOT PROPOSITION

Ms. Sushmita Singh VS Union of Bindia

1. The Prime Minister of Bindia, in a complete surprise move, announced on the evening of November 8, 2016, the Demonetization Policy of the Government by demonetizing the high denomination currencies issued by the central bank namely Reserve Bank of Bindia (RBB).
2. As a part of the policy, the currency notes of ₹ 500 and ₹ 1000 were withdrawn and in exchange thereof, holders of those currencies were offered the new currency notes of ₹ 500 and ₹ 2000 or existing currencies of the smaller denominations, but the exchange was subject to a condition that the demonetized old currency notes are deposited in the Banks by the holders of those currencies before January 1, 2017.
3. The demonetization policy received mixed response from the economists, corporate entities and the common man. However, the Govt. claimed success and pointed out that its stated purposes, that is - weeding out of fake currencies and bringing black money into the mainstream economy, have succeeded.
4. The Prime Minister continuing his monetary reforms to tackle the black money, etc., took the second step. The President of Bindia issued an Ordinance which was replaced by an Act of the Parliament namely Regulation of High Value Deposits Act, 2017.

5. Sec 3 of Act of 2017 declared that "If the total deposits made in the account or accounts of an individual were in excess of ₹ 50 crores during the period of November 9, 2016 to December 31, 2016, the excess amount shall stand frozen and no bank shall permit withdrawal or transfer of the frozen amount"

6. However, Sec 3 Act of 2017 stated that the "... Banks may permit withdrawal or transfer of the frozen deposits, if the individual establishes before the Demonetization Court (DC), constituted under Sec 6 of this Act, that the money deposited by him or her during the period was earned neither by evading taxes nor by corrupt means". Sec 10 of the Act of 2017 stated that the "this Act shall have overriding effect over all other laws".

7. A popular cine actress and dress designer Ms Sushmita Singh incurred heavy losses in her business on account of lack of liquidity. The daily sales in her boutique owned by her which was about ₹ 10 lakhs per day did not cross ₹ 5 lakhs per day for about 60 days.

She failed to get any offer for acting in the films as the producers facing uncertainty become dormant in the film production. Thus, being aggrieved, Ms Singh filed a Writ Petition in the High Court challenging the constitutional validity of both demonetization and the Act of 2017. The Petition was transferred to the Supreme Court of India. Besides seeking orders for de-freezing her account and the excess deposit of ₹ 20 crores, the petitioner also sought compensation of ₹ 2 crores for losses she suffered due to both demonetization and subsequent statutory freezing of her deposits. However, the Union defended both the demonetization and subsequent legislation to freeze the deposit of ₹ 20 crores out of the deposits of ₹ 70 crores. With regard to the compensation, the Union denied any inconveniences or losses and submitted that the demonetization and

subsequent freezing of her account as the part of sovereign functions and therefore, Union is not liable for the alleged tortious acts.

8. The division bench of the Supreme Court of Bindia referred the transferred Writ Petition to the constitution bench, which set down the matter for final hearing. However, at this stage, the petitioner withdrew his challenge to the legality of demonetization. The following questions were raised for consideration by the constitution bench:

(i) Whether the Regulation of High Value Act, 2017, enacted by the Parliament is arbitrary, discriminatory and anti thesis of the fair procedure violating inter alia Art 14, Art 21, Art 300 and 300A of the Constitution ?

(ii) Whether, the petitioner has a legal right to claim any compensation against the Union of Bindia for the losses due to demonetization and freezing of the deposits ?

9. The Mooters shall prepare brief and argue for Petitioner and Respondent, Union of Bindia.

The participants shall treat the laws of Union of Bindia as pari-materia to the Republic of India.