

**Before Shri R.S. Virk, District Judge (RETD.)
appointed to hear objection/representations in the matter of PACL Ltd.
as referred to in the order dated 15/11/2017, of the Hon'ble Supreme
Court passed in civil appeal no. 13301/2015 titled Subrata Bhattacharya
vs SEBI and duly notified in SEBI Press release no. 66 dated 08/12/2017.**

File No. 342

**MR Nos. 24752-16, 10166-15,
15658-16, 9946-15& 9941-15**

Objector:A. Ramakrishna

Present: Sh. Manjunath, Advocate (Enrolment No. KAR/4833/1999)
With Sh. Sudhir H. M., Advocate, Bangalore (Enrolment No. KAR/428/200)

Order:

1. It may be noticed at the outset that vide order dated 02/02/2016, passed in civil appeal no. 13301/2015 bearing the title Subarata Bhattacharaya Versus Securities & Exchange Board Of India, the Hon'ble supreme court had directed constitution of a committee by SEBI to be headed by Hon'ble Mr. Justice R.M. Lodha. former Chief Justice of India as its Chairman for disposing of the land purchased by PACL so that the sale proceeds recovered there from can be paid to the investors who have invested their funds in the company for purchase of the land. The said committee was asked to collect relevant record including title sale deeds from the CBI (Central Bureau of Investigation) if it is in possession of any documents.
2. The committee on its part has put up various properties including the property forming the subject matter of the present objection petition for auction sale on its website www.auctionpacl.com.
3. The objector above named seeks delisting of the under mentioned properties:-

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SI. No.	Sy. No.	Extent Purchased	Owner	Document Details	MR Number for Property Reference
1	8	7 acres 36 guntas	A Ramakrishna	970/2005-06 dated 10.03.2004	24752-16
		9 acres	A Ramakrishna	1042/2005-06 dated 20.10.2005	
2	202/2	0 acres 17 guntas	A Ramakrishna	3431/2005-06 dated 20.10.2005	10166-15 and 15658/15
		0 acre 30 ^{1/2} guntas	A Ramakrishna	5066/2004-05 dated 09.11.2004	
3	221/2	0 acre 27 guntas	A Ramakrishna	3754/2005-06 dated 19.07.2005	10166-15, 156/16 and 9946/15
4	231	1 acre 17 guntas	A Ramakrishna	5128/2004-05 dated 08.11.2004	9941-15
Total		20 acres 7^{1/2} guntas			

4. The objector above named contends that the lands detailed above were purchased by him through seven separately registered sale deeds detailed in column 5 of the table above from the previous registered owner namely Smt Chitra Bali and Shri B.K. Bali qua two entries at Sr No. 1 of the above table in respect of 7 acres 36 guntas and 9 acres respectively; from Smt Muniyamma, Shri Muniyappa and Shri M. Muniraju qua first entry at Sr. No. 2 of the above table in respect of 0 acres 17 guntas and; from Shri M. Narayana Swamy, Sri Murthy and Sri Murali qua second entry at Sr. No. 2 of the above table in respect of 0 acres 30 1/2 guntas; from Sri R. Shanth Kumar qua entry at Sr. No.3 of the above table in respect of 0 acre 27 guntas; and from Sri M. Narayanappa, Ms Shoba, Sri Vishwanath and Sri Harish qua entry at Sr. No. 4 of the above table in respect of 1 acre 17 guntas, all against due sale considerations.

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5. Before proceeding to dwell upon the merits otherwise of the objection petition in hand, it is considered expedient to reproduce hereunder by way of comparative chart showing execution of documents pertaining to the property in question, by two sets of persons, in favour of two sets of vendees as detailed hereunder:-

SALE TRANSACTION CHART

Sl. No.	Sy. No. & extent	Title flow in favour of Objector A.Ramakrishna		Title flow in favour of PACL/ITS NOMINEE	
		Executed by	Document details	Executed by	Document details
1.	221/2-27 guntas	R.Shantha Kumar in favour of A.Ramakrishna for 27 guntas	Sale Deed dated 19.7.2005 registered as document No.3754/05-06.	R.Yashodha wife of R.Shantha Kumar for 13 guntas R.Ramakrishna brother of R.Shantha Kumar for 14 guntas	Agreement to sell 17.12.2009 registered as document No.4432/2009-10
2.	231/1-1 acre 17 guntas	Narayanappa and his children in favour of A.Ramakrishna.	Sale Deed dated 8.11.2004 registered as document No.5128/04-05.	Muniraju	Agreement to sell dated 20.5.2011 registered as document No.860/11-12
3.	202/2-1 acre 7 ½ guntas	Narayanaswamy in favour of A.Ramakrishna 30 ½ guntas	Sale Deed dated 9.11.2004 registered as document No.5066/04-05	C.Divya (who has purchased the Subject A Property from Anasuyamma wife of Narayanaswamy vide sale deed dated 26.4.2006 registered as document No.1066/06-07)	Agreement to sell dated 17.12.2009 registered as document No.4432/2009-10
		Muniyamma & her sons in favour of A.Ramakrishna 17 guntas	Sale Deed dated 3.8.2005 registered as document No.3431/05-06	K.Chandrakala(purchased from daughter of Muniyamma)	Agreement to sell dated 17.12.2009 registered as document No.4432/2009-10.
4.	8-16 acres 36 guntas	V.K.Bali and Chitra Bali in favour of A.Ramakrishna 34 acres 36 guntas	5 Sale Deeds all dated 10.3.2004 registered as document Nos.968/05-06, 969/05-06, 970/05-06, 971/05-06(read with the rectification deed dated 23.2.2007) and 1042/05-06	K.Muniraju	Agreement to sell 19.5.2011 registered as document No.802/11-12


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6. The first and foremost argument put forth on behalf of the objector is that entries against **MR Nos. 24752-16, 10166-15 15658-16, 9946-15 and 9941-15** as uploaded on the website of SEBI are based on mere agreements of sale, which too have been executed only after purchase of the property in question by the objector herein from the erstwhile owners and which cannot therefore have precedence over the registered sale deeds as setout in the chart above, firstly because they are prior in time to the ATS referred to above as compared to the sale deed and secondly because ATS in itself does not confer title. He rightly cites Suraj Lanp & Industries Pvt LTd Versus State of Haryana & another reported in AIR 2012 SC 206; Rambhau Namdeo Gajre Versus Narayan Bapuji Dhostra (dead) through Lrs. reported in AIR 2004 SC 4342 and Cherichi Versus Ittainam & others reported in AIR 2001 KER 184 support of the above argument which is legally sound.
7. It is next argued that in pursuit of his title to the properties in question, he has filed OS No. 876/2012 against K. Muniraju and Prateek Kumar interalia because the execution of an agreement of sale dated 19/05/2011 by the defendant no. 1 therein namely K. Muniraju in favour of defendant no. 2 therein namely Prateek Kumar in respect of the land measuring 16 acres 36 guntas for an amount of Rs. 11,74,25,000/- (eleven crores seventy five lakhs and twenty five thousand) was far in excess of the amount mentioned by him in the agreement of sale at Rs. 1,70,00,000/- (one crores and seventy lakhs) and which would expose him to pay huge amount of tax towards capital gain and wherein the trial court vide order dated 12/09/2012 had stayed the execution of sale deed in pursuance of the said agreement of sale dated 19/05/2011 and added that the next date fixed therein is 02/04/2018.
8. He also claims that he has filed RA (Dev): 120/06-07 before the Court of the Assistant Commissioner challenging the mutation in favour of Anasuyamma w/o Nrayanaswamy in respect of property comprised in survey no. 8 (measuring 16 acres 36 guntas detailed at Sr. No. 1 of the chart above) which mutation was cancelled and the Tehsildar was directed to enter the mutation thereof in the name of A. Ramakrishna (objector herein).
9. The objector herein is statedly a defendant in OS No. 450/2010 pending before the Civil Judge, Devanahalli for 21/04/2018 which was filed by Anasuyamma w/o Nrayanaswamy and her children in respect of the aforesaid property.
10. The objector also claims to have filed OS No. 541/2010 pending before Civil Judge (Senior Division) Devanahalli seeking declaration to the effect that the sale deed dated 26/04/2006 executed by Anasuyamma w/o Nrayanaswamy is not binding on the objector herein and wherein temporary injunction stands granted restraining the above named defendant from alienating the property in question.

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11. a) With reference to the property measuring 1 acre 7^{1/2} guntas detailed at Sr. No. 2 of the chart above, it is argued that 30^{1/2} guntas of the said property was earlier owned by one Nrayanaswami who had executed ATS and registered GPA in favour of R Venkatesh who on the strength of authority vested in him had executed a sale deed dated 09/11/2004 in favour of objector herein.
- b) With reference to the remaining property measuring 17 guntas detailed at Sr. No. 2 of the chart above, it is argued that the said property was earlier owned by one Muniyamma who had executed ATS and registered GPA in favour of R Venkatesh who on the strength of authority vested in him had executed a sale deed dated 09/11/2004 in favour of objector herein.
12. With reference to property at Sr. No. 3 of the chart reproduce in para 5 above it is argued that the said property was earlier owned by one D. Chennappa who had transferred the same in favour of R. Shantha Kumar vide registered sale deed dated 13/08/1984 and who in turn had executed ATS and registered GPA in favour of R Venkatesh who on the strength of authority vested in him had executed a sale deed dated 09/11/2004 in favour of objector herein.
13. With reference to property at Sr. No. 4 of the chart reproduce in para 5 above it is argued that the said property was earlier owned by one Hobalappa which was inherited upon his death by one Narayanappa vide inheritance certificate bearing IHC No. 252/94-95 and who alongwith his children had transferred the same in favour of the objector herein through his GPA holder D. S. Deshpande.
14. In so far as the Civil litigation referred to in the forgoing paras is concerned, the same upon its conclusion would have its necessary consequences on all concerned but in so far as the present objection petition is concerned, the objector herein has put forth a credible case to oppose the auction of the properties in question by establishing that these cannot be considered to be vesting in PACL or its nominees / associates / subsidiaries.
15. In view of the foregoing discussion, the objection petition in hand is hereby accepted.

Date : 28/03/2018


R. S. Virk
Distt. Judge (Retd.)

Note:

Two copies of this order are being signed simultaneously, one of which shall be retained on this file whereas the other one, also duly signed, shall be delivered to the objector as and when requested /applied for.

Date : 28/03/2018


R. S. Virk
Distt. Judge (Retd.)