

Before Shri R.S. Virk, District Judge (Retd.)
appointed to hear objections/representations in the matter of PACL Ltd.
(as referred to in the orders dated 15/11/2017 read with order dated
13/04/2018 of the Hon'ble Supreme Court passed in civil appeal no. 13301/2015
titled Subrata Bhattacharya vs SEBI, and also duly notified in SEBI Press release
no. 66 dated 08/12/2017).

File no. 456

MR NO. 17908-16

Objector : Ankur Sharma and Smt. Kusum Sharma

Present : Kamaljeet Dahiya, Advocate, Chandigarh

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.
2. The objectors above named seek delisting of the agricultural land measuring 17 kanals 16 marlas comprised in Khewat/Khata no. 63/64 min. and 136/143, Rect. No. 12, Killa nos. 24/2(4-10), 18/2(2-9), 22/3(1-3), 22/4(2-7), 23(7-7) situated in the revenue estate of village Aklimpur, Tehsil Gurugram vide Jamabandi of the year 2002-03 with the averments that M/s PGF Ltd was previously the recorded owner in possession of the above described land which had sold the same in favour of M/s Yash Garg Properties as so recorded in the sanctioned mutation no. 1085 dated 28/10/2011(Copy of which has been produced on record).
3. Subsequent thereto, M/s Yash Garg Properties statedly sold the above described land to the objectors herein vide registered sale deed no. 24184 dated 24/11/2011 for an amount of Rs. 94,16,200/- (Ninety four lakhs sixteen thousand and two hundred) which was so paid by the objectors to M/s Yash Garg Properties through Demand Draft Nos. 235873 and 235874, both dated 01/10/2011, DD No. 235879 dated 18/11/2011, DD Nos. 251239 and 251240, both dated 23/11/2011 in the sum of Rs. 9,00,000/-, 15,00,000/-, 26,00,000/-, 23,00,000/- and 21,16,200/-, totalling Rs. 94,16,200/- all drawn on ICICI Bank, Sector-14, Gurugram as so detailed in para 1 (i) to (v) of the photostat copy of the registered sale

R.S. Virk
19/4/18

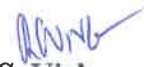
deed dated 24/11/2011. It is claimed that mutation no. 1091 has also been sanctioned in favour of the objectors herein on 13/12/2011(Copy whereof also has been produced in record). The objectors thus contend that they are bona fide purchasers of the said land.

4. It is averred inter-alia that after purchase of this land they had leased it out to Kusum Educational and Welfare Trust for a period of 30 years vide registered lease deed no. 13560 dated 09/09/2013 which was further extended upto 99 years vide subsequently registered lease deed no. 5237 dated 04/12/2017.
5. It is also claimed by them that a notification under Section 4 of the Land Acquisition Act, 1984 was issued in respect of this land on 31/12/2013 where upon they had filed CWP No. 1323 of 2015 in the High Court of Punjab and Haryana at Chandigarh and the said land has been released from attachment pursuant to order dated 05/09/2017 of the Hon'ble High Court in the said writ petition.
6. No doubt the property in question was not owned by M/s PACL Ltd (whose properties have been attached by the committee for auction sale thereof), but by M/s PGF Ltd as detailed in para 1 of this order above, yet the fact cannot be lost sight of that the attachment of the property in question has been effected by the PACL committee and therefore the objection petition in hand for delisting this property from the said attachment is maintainable before me as rightly argued by the learned counsel for the objectors.
7. Now coming to the merits or otherwise of the objection petition in hand, it may be noticed that the factum of the objectors being bona fide purchasers of the land in question stands establish from the fact that the entire sale considerations of Rs. 94,16,200/- (Ninety four lakhs sixteen thousand and two hundred) was paid through bank transactions as detailed in para 3 of this order above. The said sale transaction is 'prior' to the order of the Hon'ble Supreme Court dated 02/02/2016. Furthermore, in order to defend their ownership rights in the said land, the objectors even contested the proposed acquisition of the land in question by the State of Haryana by filing CWP No. 1323 of 2015 in the High Court of Punjab and Haryana at Chandigarh pursuant whereto, the said land has been released from attachment in view of order dated 05/09/2017 whereby the notification dated 31/12/2013 issued by the State of Haryana under section 4 of the Land Acquisition Act, 1894 was quashed by the High Court of Punjab and Haryana as having lapsed. Copy of the said order dated 05/09/2017 (which is common to CWP No. 1323 of 2015 bearing the title Smt. Kusum Sharma and others Versus State of Haryana and others and CWP No. 8443 of 2014 bearing the title Anil Kumar and others Versus State of Haryana and others has been produced on record by the objectors herein).

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8. In view of the foregoing discussion, the objection petition in hand is liable to be and is hereby accepted.


Date : 19/04/2018


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 : 19/04/2018


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