

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, 13/04/2018 and 02/07/2018 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. 569 (For review of order dated 03/01/2018 File No. 34)

Objector : Bhagyashree Buildtech Pvt. Ltd.

Present : Shri Depesh Panda, and Shri Anshuman Ray, Advocates for the
applicant

Order :

1. Objection petition no.34 filed by the applicant herein against attachment of land bearing Survey Nos. 16/1(2-12), 17/1(3-16), 18/1(3-6), 19/1(4-0), 7(8-0), 8/1(4-0), 13/2(4-2) and 14(8-0) situated at village Murthal, Tehsil and District Sonapat as attached by the committee as indicated on its website www.auctionpacl.com with specific reference to MR Nos. (given by the CBI during the course of investigation) was dismissed vide my order dated 03/01/2018. The said order indicated against Catalogue No. 6 was soon thereafter uploaded on SEBI website www.sebi.gov.in/PACL.html.
2. The application in hand seeking review of aforesaid order dated 03/01/2018 is accompanied within application seeking delay in which context it is averred that there is infact no delay and nor is the said aspect available in as much as the applicant is not relying upon order 47 rule 1 CPC, but is simply seeking procedure of review in terms of the under mentioned judgements :-
 - (i) Surendra Singh and others : AIR 1954 SC 194
Versus
State of Uttar Pradesh
 - (ii) Bai Dahi : MANU/MH/0035/1906
Versus
Hargovandas Kuberdas
 - (iii) Tarigopula Nagiah : MANU/TN/0269/1921
Versus
Komineni Seshamma and others


3. It may be highlighted here that my tenure initially was for a period of four months only as so reflected in the order dated 15/11/2017 passed by the Hon'ble Supreme Court in Civil Appeal No. 1313301/2015 titled Subrata Bhattacharya vs SEBI. In the absence of any specified procedure, I have been following procedure and principles of civil law and natural justice while dealing with objections/representations received against attachment of their respective properties from the various objectors.
4. In the case in hand, the order dismissing the objection petition is dated 03/01/2018 and the application seeking review of the said order is dated 24/08/2018 i.e. after an interval of more than seven months. The applicant objector firstly claims that the order dated 03/01/2018 was not communicated to the applicant nor was any signed/certified copy supplied to it. This contention is untenable because in addition to notice dated 18/12/2017 for appearance having been sent by speed post requiring the applicant, based at Delhi to appear before me on 02/01/2018, intimation in this context was also sent at the email address of the applicant on 28/12/2017. On the date fixed viz 02/01/2018 Mr. Dinesh authorised signatory of the applicant had appeared in person and had made his submissions in the matter whereupon it was adjourned to 03/01/2018 for orders which were duly passed and ultimately uploaded on SEBI website. The learned counsel for the applicant contends that the order dated 03/01/2018 should have been sent by email to the applicant just as the notice for hearing fixed for 02/01/2018 was sent. I find no merit in this contention.
5. It is next contended that there is in fact no delay and in the application in hand is only for procedural review because this committee is not a creature of CPC but has come into existence under orders of the committee of Justice Retd. R.M. Lodha in the matter of PACL which in turn was set up by the Hon'ble Supreme Court vide its order dated 02/02/2016 passed in civil appeal no. 13301/2015 titled Subrata Bhattacharya Vs SEBI. Be that as it may so, neither the applicant nor anyone else similarly placed can claim to proceed in such like matters at his convenience. For the very reason that I am dealing with these matters in the circumstances set out above, the observations in the above noted three cases cited on behalf of the applicant cannot be considered sufficient to ignore the gross delay of more than seven months in moving the application in hand for review specially when it is borne in mind that my initial appointment was for a period of four months only to be computed from 06/12/2017. No doubt my tenure was extended by the Hon'ble Supreme Court vide subsequent order dated 13/04/2018 for three months and yet again vide order dated 02/07/2018 for four months in view of fresh institutions of several other similar

objections but the fact cannot be lost sight of that the applicant herein has been highly negligent in pursuing the objection petition in as much as there is a gross delay in filing the application in hand. Such belated and sometime representation applications filed for review have the affect of delaying the auction process and thereby obstructing the implementation of the order of the Hon'ble Supreme Court for expeditious sale of properties of PACL for reimbursement to the lakhs of investors. The gross delay involved herein cannot therefore be viewed lightly. In the facts and circumstances of the case, the application dated 24/08/2018 for review of the order dated 03/01/2018 is hereby accepted for hearing on merits subject to the applicant depositing on or before 06/09/2018 an amount of Rs.1,00,000/- in the bank account of SEBI as specified hereunder failing which the application in hand dated 24/08/2018 shall be deemed to be dismissed:-

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| Name of the bank : | Canara bank |
| Name of Account: | Securities and Exchange Board of India |
| Account Number : | 0172101101304 |
| IFSC Code: | CNRB0000172 |
| Address : | Canara Bank, Nariman Point, Mumbai |

Subject to deposit of cost as above ordered, this case to now come up for arguments on the review application on 07/09/2018 at 02:00 PM.

Date : 30/08/2018


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. No certified copies are being issued by this office. However, the orders passed by me can be downloaded from official website of SEBI at www.sebi.gov.in/PACL.html.

Date : 30/08/2018


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