

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 in civil appeal no. 13301/2015 Subrata Bhattacharya Vs SEBI,
and notified in SEBI Press release no. 66 dated 08/12/2017).

File no. 548 (For review of order dated 21/02/2018 File No. 377)

MR NO. 24961-16

Objectors : Gursewak Singh, Chand Kishore and Jung Bahadur Singh
Argued by : Priyanka Garg, Advocate, Delhi (Enrolment No. D/3968/2015)

Order :

1. This review petition was filed by the objector above named on 31/07/2018 seeking recall of my order dated 21/02/2018 passed in File No. 377 (Catalogue No. 69) whereby the objection petition submitted before Justice R.M. Lodha (Retd.) Committee in the matter of PACL on 29/08/2017 was dismissed by me.
2. It is claimed that the objection petition was dismissed vide order dated 21/02/2018 on account of non-production of sale deeds and supporting evidential documents to prove the objector to be bonafide purchaser which could not be produced earlier statedly despite due diligence and are now being produced on record. Non-production of material documents is not however a valid ground for review which is confined to 'error apparent on the face of record'.
3. It is also claimed that the objectors herein had purchased the land in question from M/S Castle Infraestates Pvt. Ltd which in turn had purchased the same from M/S Omaxe Limited vide sale deed dated 18/03/2011.
4. The above plea is absolutely contradictory to the plea raised by the objector in para 2 of the objection petition relevant portion whereof is being reproduced verbatim hereunder for facility of ready reference :-

That the objectors purchased Khasra Nos. 821(4-12) 822(4-0), 823 (4-0), 824(5-2) in MR No. 24961/16 measuring around 4 acres in village Gholumajra, Derabassi, Mohali SAS Nagar, Punjab, by proper titles from PACL Ltd in 2013 by proper sale deeds.

*ACW
9/10/18*

5. The ground put forth by the applicant objector for review as reproduced from its pleading in para 2 of this order above regarding the objectors herein having purchased the land in question from M/S Castle Infraestates Pvt. Ltd which in turn had purchased the same from M/S Omaxe Limited vide sale deed dated 18/03/2011 is in stark contrast to the plea raised by them in the objection petition regarding the land in question having been purchased by the objectors from PACL Ltd in 2013 by proper sale deeds. Such self-contradictory plea cannot thus form a valid ground for review because the said aspect cannot be considered to be procedural lapse capable of rectification by way of review but touches the merits of the matter which cannot be reviewed by me in view of the above proposition of law settled by the Hon'ble Supreme Court.
6. It has been pleaded inter-alia (in para viii at page 6 of the review petition) as under :-
"That the averment by the objectors in their objections petitions that the land was purchased by them from PACL was made inadvertently". This ground also cannot be considered to be an error apparent on the face of record to warrant interference with the order in question dated 21/02/2018. I stand fortified in this view from the observations of the Hon'ble Supreme Court in Grindlays Bank Ltd. Versus Central Government Industrial Tribunal and others reported in 1981 Supreme Court Cases (L&S) 309 wherein it was held inter-alia as under :-

"Different considerations arise on review. The expression 'review' is used in two distinct senses, namely

(1) a procedural review which is either inherent or implied in a court or Tribunal to set aside a palpably erroneous order passed under a misapprehension by it, and

(2) a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record.


It is in the latter sense that the Court in Narshi Thakershi's case held that no review lies on merits unless a statute specifically provides for it. Obviously when a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every court or Tribunal."

7. It is next contended (in para ix at page 6 of the review petition) that the order in question dated 21/02/2018 wrongly mentions Pabbi Roy & Co. as one of the objectors although in fact Pabbi Roy & Co. had only filed the objection petition on behalf of the objectors. A perusal of the file reveals that the name of Pabbi Roy & Co. is mentioned alongside the names of objectors but it is nowhere mentioned

A. V. V. V.
9/10/18

therein that the objection petition was being filed 'through' Pabbi Roy & Co. Nonetheless, in view of the said ground, Pabbi Roy & Co. will not be considered to be objectors to which extent alone the review petition in hand is accepted whereas the review petition in all other respects stands dismissed.


Date : 09/10/2018


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 : 09/10/2018


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