

Before Shri R.S. Virk, District Judge (RETD.)
appointed to hear objections/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.

File no. 227

MR Nos. 3599/15, 3601-02/15 and 3499/15

Objector : Navketan Agricultural Marketing Co-op. Society Ltd

Present : Sh. Saroj Kumar Mishra, Advocate, Cuttack
 (Enrolment No. O-136/2001)

Order :

1. The objector above named seeks delisting of a total area measuring 61 Acres situated at village Bagoda, Tehsil and District Shivpuri, Madhya Pradesh as per details contained hereunder:

S.N o.	Name of Seller	Buyer Name	Sale Deed No.	Location of Land		Survey No.	Area in Acres
				Village	Teh. & Distt.		
1	M/S B.H.S. Township Developers Pvt. Ltd	Navkettan Agricultural Marketing Co- op. So. Ltd	Dated 11/11/2013 Vol No. 5009 and Doc. No. 832	Bagoda	Shivpuri	326,327,331,335,340 ,344,346,348,355, 392,394,397,401,404 ,405 (15 kitas)	23.22
2	M/S B.H.S. Developers Pvt. Ltd	Navkettan Agricultural Marketing Co- op. So. Ltd	Dated 11/11/2013 Vol No. 5009 and Doc. No. 833	Bagoda	Shivpuri	330,338,349, 352,359,403, 406 (7 kitas)	13.86
3	M/S B.H.S. City Developers Pvt. Ltd	Navkettan Agricultural Marketing Co- op. So. Ltd	Dated 11/11/2013 Vol No. 5009 and Doc. No. 834	Bagoda	Shivpuri	324,329,360, 363,364,379, 388,393,396, 399,408,342, 356,357,381, 391 (16 kitas)	23.92 5

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2. The sale deed in column no. 3 at Sr.no. 1 above has been given MR NO. 3499, whereas sale deeds at Sr.no. 2 has been given **MR NO. 3599** and sale deed at Sr.no. 3 has been given **MR NO 3601-02** during the course of investigation conducted by the CBI.
3. It is argued by the learned counsel for the objector above named that notwithstanding the fact that the seller companies detailed in column 2 above are subsidiaries of PACL Ltd (as per entries as S. No. 51, 54 and 56 of the list forwarded by PACL to the Justice Lodha Committee vide its letter dated 21/06/2016 signed by one of its directors named Gurjant Singh Gill) but the fact cannot be lost sight of that after execution of sale deeds dated 11/11/2013, as detailed in column no. 4 of para 1 above, the above named companies had no right, title or interest left in the land covered by the said sale deeds more so when these sale deeds are prior to the order dated 02/02/2016 passed in civil appeal no. 13301/2015 by the Hon'ble Supreme Court in the case bearing the title Subrata Bhattacharaya versus SEBI.
4. It will be appropriate at this stage to refer to observations of the Hon'ble Supreme Court in the case bearing the title **S.P Chengalvaraya Naidu vs Jagannath reported in 1994 AIR 853, 1994 SCC (1) 1** wherein it was observed inter alia as under:

"Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and nonest in the eyes of law. Such a judgment/decree by the first court or by the highest court has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings".
5. It is thus open to this committee to see whether the above referred sale deeds, all dated 11/11/2013, as detailed in column no. 4 of para 1 above, are genuine transactions or otherwise. It needs to be pointed out at this stage that no document has been produced on record to show as to when and from whom M/s BHS Township Developers Pvt Ltd, M/S B.H.S. Developrs Pvt. Ltd, M/S B.H.S. City Developers Pvt. Ltd. had purchased the said lands and nor has any supportive

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revenue record been produced to show as to from which date M/S BHS Township Developers Pvt Ltd came to be recorded therein as owner of the said land despite it being mentioned in the aforesaid sale deed that in the government record, the name of the vendor to be owner of the land sold vide above said sale deeds was duly recorded which bald assertion cannot however be accepted at face value in the absence of production of supportive revenue record. Moreover, no details of the number of members, the directors, their names and addresses etc., been furnished and nor has any other document been produced on record to establish that Navketan Agricultural Marketing Co.Op. Society Ltd has actually been registered as such with the Registrar of Co.Op Societies, Bhopal, and if so, since when and under what registration number. Although all these three sale deeds mention the receipt of purported sale consideration through different cheques drawn on different banks on different dates, yet no supportive document such as copies of cheque, certified bank statement of accounts wherefrom the money was withdrawn by the vendee or any certified copy of the account wherein the sale consideration was deposited by the vendor companies have been placed on record. No sale consideration whatsoever within the meaning of section 54 of the Transfer of Property Act, 1882 can thus be considered to have exchanged hands. Mere payment of registration charges regarding purported sale consideration is thus apparently a sham transaction. It may be recalled here that the vendors of these sale deeds viz. M/s BHS Township Developers Pvt Ltd, M/S B.H.S. Developers Pvt. Ltd, M/S B.H.S. City Developers Pvt. Ltd are subsidiaries of PACL as per entries at Sr. Nos. 51, 54 and 56 of the list appended to the letter dated 21/06/2016 signed by one of its directors named Gurjant Singh Gill. It needs to be borne in mind that as per the order dated 02/02/2016 of the Hon'ble Supreme Court, the property of the PACL is liable to be sold and it necessarily follows that the property of its subsidiaries is also liable to sale. Notwithstanding the transfer of the land detailed in para 1 above, it is thus open to the committee to go into the authenticity or otherwise of such sale. It may be noticed that the concept of corporate entity was evolved to encourage and promote trade and commerce but not to commit illegalities or to defraud people. The corporate veil indisputably can be pierced when the corporate personality is found to be opposed to principles of justice, interest of the revenue or workman, or against public interest. In the case in hand it also needs to be pointed out in this context that all the three sale deeds on behalf of three separate entities viz M/s BHS Township Developers Pvt Ltd, M/S B.H.S. Developers Pvt. Ltd, M/S B.H.S. City Developers Pvt. Ltd were all executed through one and the same authorised representative named Mohhamad

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Kherul Hussain s/o Abul Hussain but neither has any list of the Board of Directors of the above named three companies or their names and addresses been indicated anywhere either in the purported minutes of the meeting of the Board of Directors (photocopies only whereof have been appended to the photocopies of sale deeds) and nor are their names indicated anywhere else which factor establishes that the vendor companies are mere front companies for PACL.

6. In view of the forgoing discussion, this objection petition is liable to be and is hereby dismissed.

Date : 30/01/2018


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