

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. 587

MR Nos.29637-16, 29638-16

Objector : Jasvir Kaur w/o Sukhdev Singh

Argued by : Shri Ananta Prasad Mishra, Advocate (Enrolment No.D/737/2014)

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. (a) The objector claims that land measuring 13 kanals 15 marlas situated in village Khasikalan, Tehsil & District Ludhiana indicated against MR No. 29637-16 had been purchased by her from one Gurmail Singh vide registered sale deed no. 13368 dated 13/11/2006 for valuable consideration but neither has any copy of the said sale deed been produced on record nor has the exact amount thereof or the mode of payment or even the source wherefrom the said payment was made been specified.

(b) It is further claimed by her that land measuring 18 kanals 05 marlas situated in village Khasikalan, Tehsil & District Ludhiana indicated against MR No. 29638-16 had also been purchased by her from one Sadhu Singh vide registered sale deed no. 13369 dated 13/11/2006 for valuable consideration but neither has any copy of the said sale deed been produced on record nor has the exact amount thereof or the mode of payment or even the source wherefrom the said payment was made been specified.
3. Reference may at this stage be made to observations of the Hon'ble Supreme Court in the case titled Valliammal (D) By LRs versus Subramaniam and others reported in (2004) 7 Supreme Court Cases 233 wherein the Apex Court spelt out the following six circumstances which can be taken as a guide to determine the nature of the transaction:
 - “(i) the source from which the purchase money came;
 - (ii) the nature and possession of the property, after the purchase;

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- (iii) motive, if any, for giving the transaction a *benami* colour;
- (iv) the position of the parties and the relationship, if any, between the claimant and the alleged benamidar;
- (v) the custody of title deeds after the sale; and
- (vi) the conduct of the parties concerned in dealing with the property after the sale.”

4. Keeping the above referred observations in view, it may be recalled that neither has any copy of the said sale deed been produced on record nor has the exact amount thereof or the mode of payment or even the source wherefrom the said payment was made been specified pointed out and a conjoint perusal of the above referred pleas further reveals that the full parentage and addresses of the purported vendors have also not been specified which factor assumes significance in the light of the fact that the total land claimed to have been purchased vide sale deeds detailed in para 2 of this order above measures 31 Kanals and 12 marlas in all. It is contended that PACL Ltd has no right title or interest in the said lands, original title deeds whereof had, for safety reasons, been kept by her brother-in-law Tara Singh in his office during the period of his having been working with PACL Ltd and who had died in the year 2008. However, it needs to be borne in mind that even copies of the sale deeds are not available with the objectors on the stated ground that Tara Singh had kept them in his office at the premises of PACL Ltd which plea is ridiculous on the face of it because no person would keep personal property papers in his office. It is not even clear as to whether the said Tara Singh even had any independent office in the said premises of PACL Ltd.
5. In view of the foregoing discussion, the objection petition in hand is held to be devoid of any merit and is accordingly dismissed.

Date : 26/10/2018


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 : 26/10/2018


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