

Before Shri R.S. Virk, District Judge (RETD.)

**appointed to hear objections/representations in the matter of PACL Ltd.
as so 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 and
duly notified in SEBI Press release no. 66 dated 08/12/2017.**

File no. 371

MR NO. 25051, 25055, 25063, 25064 & 25065-16

Objector : Sh. Rajesh Jiwan Uttam Chandani & Sh. Govind Jiwan Uttam Chandani

Present : Shri Amit Kumar Jain, Advocate (Enrolment No. D/338/2005) for the objector.

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 committee on its part has put up various properties including the property forming the subject matter of the present objection petition for auction sale on its website www.auctionpacl.com.
3. The objector above named in its letter dated 16/09/2016 addressed to the Nodal Officer cum Secretary of this Committee, while seeking release from attachment of the various properties detailed therein, has specified that :-
 - (i) Land comprised in Gat Nos. 400 & 420 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by the objector above named vide registered sale deed dated 08/11/2012 from Sachin Vithal Gorad detailed in para 9 of its letter dated 16/09/2016 and mutation no. 9511 stands duly entered in the revenue record in favour of the objector;
Note :- Gat No. 400 mentioned above was also the subject matter of objection petition File no.42 of Apporva Promoters & Developers as having been agreed to be sold by Jitendra Shivaji Waghmare and sixteen

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others, which objection petition has been dismissed vide my order dated 23/02/2018.

- (ii) Land comprised in Gat No. 407 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by the objector above named vide registered sale deed dated 08/11/2012 from Kanchan Dhananjay Vidhate as detailed in para 16 of its letter dated 16/09/2016 and mutation no. 9512 stands duly entered in the revenue record in favour of the objector;
- (iii) Land comprised in Gat No. 412 and 426 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by the objector above named vide registered sale deed dated 08/11/2012 from Milind Manohar Jadhav as detailed in para 17 of its letter dated 16/09/2016 and mutation nos. 8459 and 9331 stand duly entered in the revenue record in favour of the objector;
- (iv) Land comprised in Gat No. 414 and 418 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by the objector above named vide registered sale deed dated 08/11/2012 from Milind Manohar Jadhav as detailed in para 9 of its letter dated 16/09/2016 and mutation no. 9512 stands duly entered in the revenue record in favour of the objector;

Note :- Gat No. 414 and 418 mentioned above were also the subject matter of objection petition File no.42 of Apporva Promoters & Developers as having been purchased vide registered sale deed date 07/10/2015 from Sitabai Bhimrao Waghmare and seven others, which objection petition has been dismissed vide my order dated 23/02/2018.

- (v) Land comprised in Gat No. 417 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by the objector above named vide registered sale deed dated 08/11/2012 from Milind Manohar Jadhav as detailed in para 1 of its letter dated 16/09/2016 and mutation no. 9513 stands duly entered in the revenue record in favour of the objector;

4. It may be pointed out here that the aforesaid properties have been given specific malkhana register (MR) Nos. by the CBI during the course of investigation conducted by it which reveals that the properties depicted against **MR Nos. 25051, 25055, 25063, 25064 & 25065-16** were statedly agreed to be sold by the previously recorded owners Jaibai D Waghmare and others of land detailed against MR No 25051 in favour of Prateek Kumar; properties depicted against MR No. 25055 by Saru Bai G

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Waghmare and others also in favour of Prateek Kumar; land detailed against MR No 25063 by Sitaram B Waghmare and others in favour of Ramesh K. Patil; properties depicted against MR No. 25064 by Jai Singh U Waghmare in favour of Prateek Kumar; and properties depicted against MR No. 25065 by Ranghnath B Waghmare in favour of Ramesh K. Patil. The name of 'buyer' against all these five entries in MR Nos. detailed above is shown to be M/s Greenfield Estates.

5. Learned counsel for the objector while refuting the validity of the above details has referred to Section 36 A of Maharashtra Land Revenue Code (Maharashtra Act No.XLI) of 1966 (herein after referred to as the 'code') relevant part whereof is reproduced verbatim hereunder for facility of ready reference :-

(1) Notwithstanding anything contained in sub-section (1) section 36, no occupancy of a Tribal shall, after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974, be transferred in favour of any non-Tribal by way of sale (including sales in execution of a decree of a Civil Court or an award or order of any Tribunal or authority), gift, exchange, mortgage, lease or otherwise, except on the application of such non-Tribal and except with the previous sanction-

(a) in the case of a lease or mortgage for a period not exceeding 5 years, of the Collector; and

(b) in all other cases, of the Collector with the previous approval of the State Government

6. With reference to the above quoted section 36A of the 'code', learned counsel has pointed out that section 330A of the 'code' empowers the Revenue Officers mentioned in the notification issued under the 'code' to exercise the powers of the State Government which were so exercised by the Commissioner while issuing permission while granting permission letter dated 04/10/2011 in respect of Gat Nos. 400/420; letter dated 04/09/2011 in respect of Gat No. 407; letter dated 19/10/2012 in respect of Gat Nos. 412 and 426; letter dated 04/10/2011 in respect of Gat Nos. 414 and 418; letter dated 04/10/2011 in respect of Gat No. 417 as existing at pages 235, 62, 480, 688 and 685 respectively of the bunch of documents submitted by the objector herein on 06/03/2018 which sanctions above referred were so issued in favour of the earlier purchasers namely Sachin Vithal Gorad in respect of Gat Nos. 400 and 420; Kanchan Dhananjay Vidhate in respect of Gat No. 407; Milind Manohar Jadhav in respect of Gat Nos. 412 & 426 as also 414 & 418 and also in respect of Gat No. 417 as detailed in paras 3 (i) to (v) above.

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7. (i) The above named purchaser Sachin Vithal Gorad had purchased the above described land comprised in Gat No. 400 & 420 from Smt Sarubai Ganpat Waghmare, Mrs Maya Bhagwan Jadhav, Sagar Bhagwan Jadhav and Pratik Bhagwan Jadhav and who in turn had transferred the above described lands comprised in Gat Nos. 400 & 420 to the objector Rajesh Jiwan Uttam Chandani herein.

(ii) Similarly the above named Kanchan Dhananjay Vidhate had purchased the above described land comprised in Gat No. 407 from Shri Ramesh Sahebrao Waghmare, Shantabai Sahebrao Waghmare, Shobha Kondiba Bhosale, Laxmi Sajjan Kamble, Taibai Bhaguji Waghmare and Hirabai Arjun Bhalerao and who in turn had transferred the above described lands comprised in Gat No. 407 to the objector Rajesh Jiwan Uttam Chandani herein.

(iii) Similarly the above named Milind Manohar Jadhav had purchased the above described land comprised in Gat Nos 412 & 426 from Mrs. Lilabai Sitaram Waghmare, Shri Rajesh Sitaram Waghmare, Shri Sachin Sitaram Waghmare, Sujata Avinash Waghmare, Mrs. Nirmala Pradip Jadhav, Ujwala Yashwant Salave, Shri Babu Bhimaji Waghmare, Mrs. Kalpana Babu Waghmare, Bebinanda Ashok Gaikwad, Umbresh alias Amrish Ramesh Waghmare, Shri Tulshidas Ramesh Gaikwad and Mrs. Kavita (Savita) Ramesh Gaikwad and who in turn had transferred the above described lands comprised in Gat Nos. 412 & 426 to the objector Rajesh Jiwan Uttam Chandani herein..

(iv) Similarly the above named Milind Manohar Jadhav had purchased the above described land comprised in Gat Nos. 414 & 418 from Mrs. Sushila Jaysing Waghmare and who in turn had transferred the above described lands comprised in Gat Nos. 414 & 418 to the objector Rajesh Jiwan Uttam Chandani herein.

(v) Similarly the above named Milind Manohar Jadhav had purchased the above described land comprised in Gat No. 417 from Smt Manjula Subhash Rokade, Shri Vishal Subhash Rokade, Shri Shailesh Subhash Rokade, Smt Vandana Vilas Rokade, Shri Devendra Vilas Rokade, Shri Surendra Vilas Rokade and Ku. Diksha Vilas Rokade and who in turn had transferred the above described lands comprised in Gat No. 417 to the objector Rajesh Jiwan Uttam Chandani herein.

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8. All the above named persons thus sold the land described against each of them respectively in favour of the objector herein vide sale deeds dated 08/11/2012 in respect of Gat Nos. 400&420; sale deed dated 08/11/2012 in respect of Gat No. 407; sale deeds dated 10/09/2013 in respect of Gat Nos. 412 & 426; sale deeds dated 08/11/2012 in respect of Gat Nos. 414 & 418; and lastly sale deed also dated 08/11/2012 in respect of Gat No. 417 by Sachin Vithal Gorad, Kanchan Dhananjay Vidhate and lastly Milind Manohar Jadhav respectively were so sold after obtaining requisite sanction of the concerned authorities whereas no such sanctions were obtained by the owners while entering into agreements of sale with Pratik Kumar and Ramesh K. Patil who had statedly agreed into agreements of sale on behalf of M/s Greenfield Estates as described in the entries in the MR register pertaining to the above described Gat Nos. 400 & 420, 407, 412 & 426, 414 & 418 and 417 respectively.
9. The learned counsel of the objector has also pointed out during the course of arguments various bank transactions indicating payment by the objector herein of the amounts mentioned in the respective sale deeds adverted to above in favour of above named vendees namely Sachin Vithal Gorad, Kanchan Dhananjay Vidhate and Milind Manohar Jadhav respectively which payments are all recorded in the bank statements appended to the english translations of the various sale deeds adverted to above.
10. In the light of the facts and circumstances enumerated above, the objector herein in view of the registered sale deeds of the above described lands executed against due sale consideration by the owners (who had earlier purchased the same from the farmers after requisite sanction of the concerned authorities as per the provisions of the 'Code') does have a valid ground to resist the inclusion of the land in question in the list put up for auction for recovery of amount in respect of properties belonging to PACL or its associates/subsidiaries. Consequently, the objection petition in hand is liable to be and is hereby accepted.

Date :27/03/2018


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 : 27/03/2018


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