

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 read with order dated
13/04/2018 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. 464

MR NO. 7401, 7403, 7404-16
28084,28085, 28166-16

Applicants : Anil Saraf and Balkishan Rathi

Present : Shri Mukesh Kumar Verma, Advocate, New Delhi
(Enrolment No. D-1728/95)

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 applicants seek No Objection Certificate (NOC)/permission for executing in favour of Dharampal (HUF) and Shri Rajpal Hans a sale deed in respect of the under mentioned parcels of land:-
 - (i) 0.41 Hectares comprised in Khasra No. 800;
 - (ii) 0.09 Hectares comprised in Khasra No. 801/1;
 - (iii) 0.45 Hectares comprised in Khasra No. 803; and
 - (iv) 0.4537 Hectares comprised in Khasra No. 804,

all situated at village Hamzapur in Tehsil Behror of District Alwar, Rajasthan (which has fallen to their specific share by way of demarcation vide order dated 04/01/2018 passed by Shri Suresh Kumar Yadav (RAS), Assistant Collector, Behror in partition suit No. 05/2016 bearing the title Balkishan Rathi and Anil Saraf Versus Celebrity Tors Real Pvt Ltd & Tehsildar, Behror).

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3. The applicants above named contend that the above described land is a part of 140.37 Air (5.61 Bighas) earlier purchased by them vide two separately registered sale deeds dated 22/07/2014 and 07/08/2014, from Worldwide Technobuild Pvt Ltd through its authorized representative named Shri Ashok Kumar as per resolution dated 26/05/2014 of the said company. It is further claimed that the applicants have entered into an agreement of sale dated 14/02/2018 with Dharampal (HUF) and Shri Rajpal Hans as detailed in para 2 above and have already received the entire sale consideration and that they are ready to execute the sale deed but have learnt, 'statedly after the execution of the agreement of sale dated 14/02/2018', that there is some litigation going on in respect of the said land with the previous owner namely Worldwide Technobuild Pvt Ltd and that the CBI has registered a case bearing No. RC BD1/2014AE/0004 and that some proceedings are even going on in the Hon'ble Supreme Court in respect of these properties.
4. I have heard the learned counsel for the applicant/objector and have gone through the file.
5. (i) It may be noticed at the outset that the above named ostensible vendor namely Worldwide Technobuild Pvt. Ltd. is a subsidiary/associate of PACL Ltd as so entered at Sr. No. 600 of the list appended to the letter dated 21/06/2016 of PACL Ltd as addressed to Sh. Rakesh Kumar Singh, the then Nodal Officer of this Committee.
- (ii) The applicants had purchased the land in question detailed in para 2 above for a total amount of Rs.2,91,92,800/- (Two Crore ninety one lakhs ninety two thousand and eight hundred) which included "cash payments" of Rs.81,00,870/- (Eighty one lakhs eight hundred and seventy) vide the two registered sale deeds in question dated 07/08/2014 and 22/07/2014 but the subsequent agreement of sale dated 14/02/2018 mentions the sale consideration of the same land at Rs.4,88,00,000/- (Four crore and eighty eight lakhs) which is shown to have been already received in equal shares by the two applicants above named.
- (iii) Although the applicants contend that they have come to know of the attachment of the land in question only after execution of the agreement of sale dated 14/02/2018, but this claim stands falsified from a perusal of file no. 318 wherein the applicant Anil Saraf above named had, vide his letter dated 27/12/2016 addressed to the committee, had informed the details of various lands measuring 61.124 Bighas in all, (including the land comprised in Khasra Nos. 800,801,803 and 804 measuring 4.81 Bighas) as having been attached by the committee. He has specifically given therein the MR Nos. of the last mentioned four Khasra Nos. as 7401, 7403 and 7404 of 2016 and 28084, 28085 and 28166 of 2016 (as numbered by the CBI during the course of investigation).
- (iv) The above referred file no. 318 also shows "**stated purchase through agreement of sale**" dated 29/07/2014 by the applicants above named along with one Sanjeev Dhingra,

of an area measuring 2.64 Bighas of survey No. 747, for a total amount of 1,26,72,000/- wherein all three of them had separately contributed Rs.29,60,000/- each through cheque payment, besides paying Rs. 36,65,280/- by cash. It will not be out of place to mention here that the objection to the attachment of the said land had been raised through letter dated 11/04/2017 as raised by the applicant Anil Saraf along with Virendra Dhingra which was dismissed vide my order dated 16/01/2018 on merits even though none had thereafter pursued the said petition.

(v) Similarly, the two applicants herein and Sanjeev Dhingra above named claim to have purchased through "unregistered sale deed" dated 30/11/2015 yet another parcel of land measuring 0.76 Hectares comprised in Survey No. 306 wherein all three of them had paid Rs. 28,00,000/- individually by cheque, besides Rs. 1,03,79,904/- in cash. It may be added here that the objection to attachment of this land was also raised through letter dated 11/04/2017 but had escaped my notice while dismissing the objection with reference to Khasra No. 747 only vide my above referred order dated 16/01/2018 passed in file no. 318 but no application for restoration of the said objection, or passing any orders specific thereto has been moved by the applicant herein Anil Saraf and his co applicant therein named Sanjeev Dhingra to date.


(vi) Incidentally, the above mentioned two parcels of land bearing survey nos. 747 and 306 are not included in an area measuring 61.124 Bighas bearing various other survey numbers intimated by the applicants above named to the committee as having been purchased by them from Worldwide Technobuild Pvt Ltd and Pearls Global Land Developers Pvt Ltd.

6. In view of the facts narrated in para 5 above, the applicants cannot be heard to contend justifiably that their case is at parity with the case file no. 41 decided vide my order dated 20/03/2018 more so when it is borne in mind that in the said case involving purchase of two flats only, no part whatsoever of the payment of sale consideration was in cash, but was entirely through duly corroborated bank transactions whereas in the case in hand, a substantial part viz Rs.81,00,870/- (Eighty one lakhs eight hundred and seventy) out of the total sale consideration of Rs.2,91,92,800/- (Two Crore ninety one lakhs ninety two thousand and eight hundred) referred to in the sale deeds dated 22/07/2014 and 04/08/2014 was by way of 'cash'. Even the bank transaction referred to herein has not been corroborated by producing certified copies of bank statements to establish the transfer of purported sale consideration. In any case, the transaction in question arising out of sale deeds dated 22/07/2014 and 04/08/2014 is not a stand alone transaction as in file no. 41 decided vide my order dated 20/03/2018, but is a repetitive act on the part of the applicants in buying and selling various parcels of land detailed above, despite being fully aware, even prior to entering into agreement of sale dated 14/02/2018, regarding the land forming the subject matter thereof, as being under attachment by the committee.

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7. It is next argued that the only order passed for restraining the sale of properties by PACL is dated 25/07/2016 for which reason also the purchase of the properties in question by the objector vide sale deeds dated 22/07/2014 and 04/08/2014 are not liable to sale but this argument is not tenable because various properties were acquired by PACL and its subsidiaries including Worldwide Technobuild Pvt Ltd (under whom the applicants claim title to the property in question) with funds collected from gullible investors spread all over India after its incorporation around the year 1996, despite SEBI having issued a press release dated 26/11/1997, to the effect that regulations for collective investment scheme (CIS) are under preparation and till they are framed and finalised, no person can sponsor any new CIS (as so mentioned at page 3 of the order dated 22/08/2014 of Sh. Prashant Saran, whole time member, SEBI). Such illegally collected amounts were later invested by PACL and its subsidiaries/associates in various properties and consequently the genuineness or otherwise of the sale of properties by PACL to various persons / entities even prior to 25/07/2016 (on which date PACL was restrained by the Hon'ble Supreme Court from selling its properties) can certainly be gone into by this committee.
8. In view of the foregoing discussion, the application in hand is liable to be and is hereby dismissed.


Date :23/04/2018


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 :23/04/2018


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