

**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 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. 367/2

**Objector** : Om Prakash s/o Bhanwar Lal

**Present** : Sh. Abhinav Gupta Advocate (Enrolment no. D/1296/2014) Delhi  
as proxy counsel for the objector

**Order:**

1. The above named objector claims to have purchased one half share measuring 225 bighas out of the total land measuring 450 bighas comprised in Khasra nos. 114(25 bighas), 114/395(25 bighas), 114/398(25 bighas), 114/400(25 bighas), 114/401(50 bighas), 114/402(25 bighas), 114/403(25 bighas), 114/405(50 bighas), 114/406(50 bighas), 114/407(25 bighas), 114/409(50 bighas), 114/410(25 bighas), 114/411(25 bighas), 114/412(25 bighas) situated at village Manchitiya in Tehsil Phalodi of Distt. Jodhpur (Rajasthan) vide registered sale deed dated 25/05/2012 executed in his favour by Smt Jubeda. It is claimed that mutation of the aforesaid land is not being carried out by the revenue authorities in view of communication received by them from the Central Bureau of Investigation which is carrying out some investigation against M/S PGF and M/S PACL.
2. By way of the application in hand dated 07/02/2018, the Central Bureau of Investigation seeks recall of the order dated 05/01/2018 passed by me which reads as under:-

*It may noticed that Justice (Retd.) R. M. Lodha Committee constituted by the Hon'ble Supreme Court vide order dated 02/02/2016 in the case arising out of civil appeal no. 13301/2015 bearing the title Subarata Bhattacharya versus SEBI, and other connected cases, has listed several properties on its website [www.auctionpacl.com](http://www.auctionpacl.com) for attachment and sale of properties belonging to PACL and its subsidiaries/associates. However the said site which contains description of as many as twenty properties situated at village*

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*Manchitiya in Tehsil Phalodi of Distt. Jodhpur (Rajasthan) but the land described above does not find mentioned in any of the said twenty entries meaning thereby that this property has not been attached by the committee and there is thus no restraint imposed by the committee on the revenue authorities regarding mutation pertaining to this land being processed.*

*In view of the foregoing discussion, the prayer contain in para 20 (A) of the objection petition in hand is hereby allowed and further this order shall be treated an NOC in this context. No title deeds of the above described property are shown to have been received by the committee.*

3. The applicant CBI has averred that its Bank Securities & Fraud Cell Branch had upon conversion of Preliminary Enquiry No. PE/BD1/2013/E/0003 registered in pursuance of order of the Hon'ble Supreme Court of India dated 12/03/2013 passed in Civil Appeal No. 6572 of 2004 in the matter of M/s PGF Ltd Versus Union of India and others had registered an FIR vide No. RC-BDA/2014/E/0004/CBI/BS&FC/ND on 19/02/2014 under sections 120-B r/w 420 IPC against M/s PGF Ltd through its Managing Director namely Shri Nirmal Singh Bhangoo & Directors namely S/Shri Harchand Singh, Chander Bhushan Dhillon and Prem Seth and M/s PACL Ltd through its Managing Director namely Shri Sukhdev Singh, Whole Time Directors namely S/Shri Gurmeet Singh and Subrata Bhattacharya & Additional Director namely Shri Gurjant Singh Gill and unknown others.
4. It is further averred that investigation revealed that the conspiracy is having National and International ramification. Directors of M/s PGF and M/s PACL in pursuance of Criminal Conspiracy with each other and others had illegally collected Rs.45,184 Crores from 5.46 Crore gullible investors and diverted the wrongful gain/fund through Sham Land Developments (11,000 Crore approximately). Further, in pursuance of said conspiracy, thousand of crores were paid illegally to the agents and also diverted those funds through Sham transactions at all India level and also at International level to Dubai, Australia etc.
5. It is also averred that Hon'ble Supreme Court vide its order dated 02/02/2016 has constituted a committee of SEBI under the Chairmanship of Justice (Retd.) R.M. Lodha (former CJI) for disposal of PACL properties and refund to the customers. In compliance to the directions of Hon'ble Supreme Court, CBI has already handed over 29,000 PACL property documents to Justice (Retd.) R.M. Lodha Committee which includes RCs of 47 high end vehicles. This process is still going on. As this is a huge case, under investigation, the process of seizure of property documents is going on

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and there are still hundreds of property documents with CBI which are yet to be handed over to the committee for disposal.

6. It is further claimed that during investigation of the aforesaid case, it transpired that M/s PACL Ltd had purchased land/properties in the name of itself, its associate companies, its employees and in the name of other individuals, purportedly utilizing the deposits of investors. In order to safeguard the interest of such investors, CBI had seized/secured title deeds/documents relating to such properties acquired by M/s PACL Ltd and its associates.
7. It is also claimed that since the properties in question seem to have been acquired from funds belonging to the general public under various schemes of M/s PACL Ltd, in order to verify the genuineness of these property details, CBI letters under the signature of Joint Director, BS&FZ were sent to the Revenue Heads (Secretary – Revenue) of 6 states namely Delhi, Haryana, Punjab, MP, Rajasthan & Maharashtra along with the details of property documents seized by CBI with a request for the issuance of necessary directions to the Land Revenue Offices and Sub-Registrar Offices under them that a prior NOC from competent Court/CBI may kindly be obtained before allowing any further alienation/transfer of said land in future. The above CBI letters includes CBI letter No.2563 dated 20/05/2015 addressed to Secretary Finance (Revenue), Govt. of Rajasthan, Jaipur along with details of 3295 seized properties spread in 17 districts of Rajasthan. This list of properties sent by CBI to Govt of Rajasthan through above mentioned letter dated 20/05/2015, includes 5 sale deeds/properties, mentioned at serial number 321 to 326 pertaining to land situated at village Manchitiya, Tehsil Phalodi, Distt. Jodhpur (Rajasthan). Accordingly the State Govt of Rajasthan imposed the ban on said properties.
8. It is asserted that during investigation of this case CBI seized the following 5 original sale deeds from M/s PACL Ltd vide seizure memo dated 07/01/2015 (copy of CBI seizure memo alongwith copies of following 5 sale deeds have been enclosed as Annexure-A) for the land pertaining to village Manchitiya, Tehsil Phalodi, District Jodhpur :-

S.No.	S.Deed No., date & Amount	Details of buyer as per Sale Deed	Details of Seller	Total Area	S.Y. No.
1	22/2006 15/11/2006 Rs.4,00,000/-	Smt Jubeda W/o Sameer Khan R/o Village Madiyai Kalla, Tehsil Osia,	Mag Singh S/o Radha Kanwar & others, Caste	150 Bigha	114/402 (25Bg.), 114/407 (25 Bg.), 114 (25 Bg.), 114/395 (25Bg.), 114/400 (25Bg.),

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		Distt-Jodhpur, Rajasthan	Rajput R/o Village Indo K Bas, Tehsil Phalodi, Distt- Jodhpur, Rajasthan		114/398 (25Bg.)
2	2137/06 15/11/2006 Rs.4,00,000/-	-Do-	-Do-	-Do-	114/405 (50Bg.), 114/412 (25Bg.), 114/409 (50Bg.), 114/410 (25Bg.)
3	2136/06 15/11/2006 Rs.4,00,000/-	-Do-	-Do-	-Do-	114/403 (25Bg.), 114/411 (25Bg.), 114/401 (50Bg.), 114/406 (50Bg.)
4	2139/06 15/11/2006 Rs.3,40,000/-	Smt. Maina W/o Sabeer Khan R/o Village Madiyal Kalia, Tehsil-Osia, Distt-Jodhpur, Rajasthan	-Do-	140.7 Bigha	114/399 (50Bg.), 114/396 (50Bg.), 114/404(30.7Bg), 114/408 min 1 (10 Bg.)
5	2140/06 15/11/2006 Rs.2,80,000/-	-Do-	-Do-	115 Bigha	114/408 (20 Bg.), 114/408 min (20Bg.), 114/397 (30 Bg.), 114/397 (20 Bg.), 114/413 (25 Bg.)

9. It is contended that investigation revealed that the above properties were purchased by PACL Ltd through an agreement made with land broker named Sh. Rajender Singh Khetasar S/o Shambhu Singh Khetasar, since deceased, for which PACL Ltd had made payments through cheques, who in-turn used to purchase land in Rajasthan in the names of various individuals and deposit the original sale deeds in PACL office.
10. It is further contended that investigation revealed that Smt. Jubeda purportedly sold the said land on 25/05/2012 through two separate sale deeds to Sh. Om Prakash (½ portion) & Sh. Chailu Singh (½ portion). The details of the same are as under :-

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S. Deed No. & Date	Khasra Nos. of Vill-Manchitiya purportedly purchased by Smt Jubeda from Sh. Mag Singh & others	S. Deed No., date & Amount	Khasra Nos. of Vill-Manchitiya purportedly purchased by Sh.Om Prakash (½) & Sh. Chailu Singh (½) from Smt Jubeda
22/2006 15/11/2006	114/402 (25Bg.), 114/407 (25 Bg.), 114 (25 Bg.), 114/395 (25Bg.), 114/400 (25Bg.), 114/398 (25Bg.)  <b>Total 150 Bigha</b>	2123/12 31/05/2012 Rs.24,79,702/-	114 (25 Bg.), 114/395 (25Bg.), 114/398 (25Bg.), 114/400 (25Bg.), 114/401 (50Bg.), 114/402 (25Bg.), 114/403 (25Bg.), 114/405 (50Bg.), 114/406 (50Bg.)
2137/06 15/11/2006	114/405 (50Bg.), 114/412 (25Bg.), 114/409 (50Bg.), 114/410 (25Bg.)  <b>Total 150 Bigha</b>	and 2124/12 31/05/2012 Rs. 24,79,702/-	114/407 (25 Bg.), 114/409 (50Bg.), 114/410 (25Bg.), 114/411 (25Bg.), 114/412 (25Bg.),
2136/06 15/11/2006	114/403 (25Bg.), 114/411 (25Bg.), 114/401 (50Bg.), 114/406 (50Bg.)  <b>Total 150 Bigha</b>		<b>Total 450 Bigha</b> (225 Bigha Sh. Om Prakash & 225 Sh.Chailu Singh)

11. It is claimed that Sh. Om Prakash aggrieved with the ban referred to in para 7 of this order above, filed Civil Writ Petition No. 9508 of 2015, in the Hon'ble High Court of Jodhpur and CBI being respondent, filed its suitable detailed reply (copy whereof has been enclosed as Annexure-B to the application in hand dated 07/02/2018)

12. It is also claimed that during the course of hearing, the Hon'ble High Court of Jodhpur vide its order dated 04/01/2018 asked CBI about the present status of property in question and why these sale deeds have not been handed over to the Committee. Accordingly in compliance, CBI filed an additional affidavit in the Hon'ble High Court of Jodhpur on 22/01/2018 (copy have been enclosed as Annexure-C) saying that the 5 property documents pertaining to the land situated at village Manchitiya, Tehsil Phalodi, District Jodhpur, were not handed over to the committee for the time being, by CBI, keeping in view that the matter pertaining to

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this land is pending before this Hon'ble High Court and at any time this Hon'ble court may ask/direct CBI to show/produce the same original documents. However now CBI will hand over the same property documents to the committee within 2-3 weeks.

13. During the pendency of the above described CWP No. 9508/2015 filed by the objector Om Prakash herein before the High Court of Jodhpur, he moved an application dated 05/07/2017 through his Advocate Punit Jain as addressed to the Secretary cum Nodal Officer of the Committee seeking release of the property in question from attachment with the specific averment in para 17 thereof that the property forming the subject matter of the said application dated 05/07/2017 **does not** find mentioned in the list of properties of village Manchitiya (Phalodi), District Jodhpur, Rajasthan which are to be sold in public auction.
14. In the light of the aforesaid averment of the objector as detailed para No 13 above, the order in question dated 05/01/2018 (as reproduced verbatim in para 2 of this order above), came to be passed by me which is now sought to be recalled by the CBI in view of the grounds detailed in paras 3 to 12 of this order above.
15. (a) The objector in his reply to the above application has asserted that the property in question was purchased by him from its registered owner named Smt Jubeda as this property was not indicated in the list of properties being dealt with by the committee as per its website [www.auctionpacl.com](http://www.auctionpacl.com) and the CBI had not responded to his request letters dated 09/07/2015 and 15/07/2015 for issuing "No Objection Certificate" for which reason he had moved the High Court of Rajasthan where from he learnt regarding the constitution of this committee set up under orders of the Hon'ble Supreme Court and he had accordingly moved this committee for issuance of "No Objection Certificate" in respect of the property in question.  
  
(b) It is asserted inter-alia that there is no valid explanation as to on what basis CBI claims the property in question to be owned by M/s PACL. It is contended that no agreement statedly entered into between M/s PACL and Shri Rajender Singh Khetasarhas has been produced on the record of this file by the CBI and nor have the details of payment statedly made by M/s PACL to the above named Rajender Singh been furnished. It is also contended that by virtue of section 54 of TP Act read with Section 48 of the Registration Act, Smt Jubeda was the legal owner of the property sold to the objector herein and that unless a declaration is given by a court of competent jurisdiction setting aside sale effected in her favour and declaring M/s PACL to the owner of the same, neither the CBI nor any other person can assume legal title of the property to be with any person other than the registered owner of the

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same. It is also asserted that the original title deeds of the property if in the custody of the committee be returned to the objector who is now the recorded owner of the property.

16. It is also claimed that this property was originally owned by one Mag Singh who had transferred the same vide three separately registered sale deeds all dated 15/11/2006 in favour of Smt Jubeda wife of Sameer Khan and that she was well within her rights to transfer the property to the objector herein.
17. I have heard the learned counsel for the respondent objector Om Prakash and have gone through the case file which reveals that the original sale deeds of as many as seventy five properties in Rajasthan, including those standing in the name of Smt Jubeda w/o Sameer Khan were taken into possession on 07/01/2015, by the CBI during the course of investigation as detailed at Sr. Nos. 8 to 10 of the list appended to the seizure memo attached with the application in hand.
18. The first and foremost argument raised by the learned counsel for the respondent objector to the effect that the CBI must show some provision of law under which it is authorized to issue such a directive as contained in para 7 of this order above has to be rejected outright because as per the provisions of Section 451 (b) CrPC, 1973 an investigating officer has the right to take such steps as may be necessary for proper custody of case property which in the case in hand happens to be land being fictitiously transferred from one hand to another to the detriment of the crores of investors of PACL. Reference may in this context be made to observations of the Hon'ble Supreme Court in the case title S.P. Chengalvaraya Naidu (Dead) by LRs versus Jagannath (Dead) by LRs and Others reported in (1994) 1 SCC wherein it was observed inter-alia that non disclosure of relevant and material documents with a view to obtain advantage amounts to fraud which can be questioned even in collateral proceedings. In the case in hand, it will be pertinent to bear in mind that the purported vendor namely Smt. Jubeda of the objector herein named Om Prakash had statedly purchased the land in question from the previously recorded owners namely Mag Singh and three others vide three separate sale deeds, all dated 15/11/2006, for amounts of Rs.4,00,000/- (four lakhs) in each sale deed, which amounts were all statedly paid in cash. Subsequent thereto she transferred this very land in favour of the objector herein namely Om Prakash through registered sale deed dated 25/05/2012 for an amount of Rs.24,79,702/- which financial transaction was again in cash and which transactions are being questioned by the CBI as having been carried out with the money illegally collected by PACL from lakhs of gullible investors all over India and which money was illegally parked by purchasing land in the names of

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different persons as Smt Jubeda above named and others through persons like Shri Rajender Singh Khetasarhas as mentioned in para 15 above. In the case in hand, a material circumstance which needs to be taken note of is the recovery of original sale deed executed by Mag Singh and three others in favour of Smt Jubeda above named from the premises of PACL office. No reason whatsoever is forth coming from the objector as to under what circumstances the original title deeds of the land in question were not with his vendor namely Smt Jubeda but were recovered from the premises of PACL office. This aspect assumes significance because Smt Jubeda is apparently an illiterate lady with no ostensible source of income and therefore purchase of the land in question by her vide three separate sale deeds all dated 15/11/2006, for Rs.4,00,000/- in each sale deed, all in cash, and further sale of 225 Bighas out of the same in favour of the objector Om Prakash herein vide sale deed dated 25/05/2012 for Rs.24,79,702/-, again in cash, is a highly suspicious circumstance. Reference may in this context be made to observations of the Supreme Court in the case titled Valliammal (D) By LRs versus Subramaniam and others reported in (2004) 7 Supreme Court Cases 233 cited by the learned counsel for the objector himself wherein the Apex Court spelt out the following six circumstances which can be taken as a guide to determine the nature of the transaction:

- “(1) the source from which the purchase money came;
- (2) the nature and possession of the property, after the purchase;
- (3) motive, if any, for giving the transaction a *benami* colour;
- (4) the position of the parties and the relationship, if any, between the claimant and the alleged benamidar;
- (5) the custody of title deeds after the sale; and
- (6) the conduct of the parties concerned in dealing with the property after the sale.”

19. (a) It may be recalled that as per para 4 of the application in hand, M/s PACL and M/s PGF in pursuance of criminal conspiracy had illegally collected more than Rs. 45,000 Crores from 5.46 Crore investors spread all over India. Investigation into such a massive scale of fraud and embezzlement etc, is obviously going to take time but the applicant objector as per para 14 of his application wanted the CBI to act on his applications dated 09/07/2015 and 15/07/2015 forthwith for issuing NOC in his favour ! The recovery of original title deeds of the land in question in favour of Smt Jubeda are in themselves a very strong circumstance indicating that she was merely a benamidar and the money was not her own but of someone else which as per circumstances indicated above was of PACL which in turn was not a bonafide investor but was investing this amount for ulterior motives to the detriment of crores of innocent investors spread all over India. It may be pointed out here that various properties were acquired by PACL and its subsidiaries with funds collected from

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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. In this view of the matter, the mere fact that the land in question was transferred by the previously recorded owners Mag Singh etc in favour of Smt Jubeda above named vide registered sale deeds is not sufficient in itself to consider the subsequent transaction entered into by Smt Jubeda above named in favour of the objector Om Prakash herein to be sacrosanct more so when it is recalled that she is apparently and illiterate lady with no ostensible means of income and yet entered into such heavy transactions in cash. Even otherwise, it needs to be borne in mind that the magnitude of the fraud perpetrated by PACL is immense and unique in the sense that not an individual or two but crores of investors are the ultimate sufferers in as much as it was their money illegally collected which was purportedly utilised for various transactions running into several thousand including the one in hand.

(b) It needs to be specifically highlighted here that my order dated 07/02/2018 was passed in view of specific averment by the objector herein that the property in question **does not** find mention in the list of properties of Village Manchitiya (Phalodi), District Jodhpur, Rajasthan which are to be sold by way of public auction by the committee but the above discussion would reveal that the said property is also under scrutiny in as much as the original title deed thereof was recovered by the CBI from the premises of PACL office during the course of investigation.

20. In view of the foregoing discussion, the application in hand dated 07/02/2018 moved by the CBI seeking recall of my order dated 05/01/2018 is hereby accepted and my said order dated 05/01/2018 stands recalled and as a necessary consequence, the application dated 05/07/2017 moved by the objector above named seeking issuance of 'NOC' referred to above stands dismissed.

**Date :16/05/2018**

  
**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](http://www.sebi.gov.in/PACL.html).

**Date :16/05/2018**

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