

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 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. 466 (For review of order dated 23/02/2018 File No. 42)

**MR Nos. 25044-16, 25046-16, 25056-16,
25050-16, 25047-16, 25058-16, 25053-16,
25060-16, 25061-16 & 25062-16.**

Applicant : Apoorva Promoters & Developers

**Present : Sh. Guddipati G. Kashyap, Advocate Delhi
(Enrolment No. D/3906/2013)
with Sh Prakash D Bhaygude, Advocate, Pune
(Enrolment No.NAH/5923/2009) for the applicant**

Order :

1. This application was filed by the objector above named on 20/04/2018 seeking recall of my order dated 23/02/2018 passed in File No. 42 (Catalogue No 86) whereby the objection petition dated 16/09/2016 addressed to the Nodal Officer cum Secretary to Justice R.M. Lodha (Retd.) Committee in the matter of PACL was dismissed.

(i) The objector Apoorva Promoters & Developers above named in its letters dated 16/09/2016 and 01/10/2016 addressed to the Nodal Officer of this Committee while seeking release from attachment of the property detailed therein had specified that :-

(a) The land comprised in Gat Nos. 413, 423, 424 and 425 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by him from Rahul Arjun Waghmare & Others named therein vide sale deed dated 11/07/2012;

(b) The land comprised in Gat No. 401 was purchased from Sharada Dagdu Waghmare and others vide sale deed dated 26/07/2012;

(c) The land comprised in Gat No. 402 was purchased from Jaywant Ramchandra Waghmare and others vide two separate sale deeds dated 17/07/2012 and 01/08/2012;

(d) The land comprised in Gat No. 403 was purchased from Gautam Genu Waghmare and others vide sale deeds dated 04/07/2012 and 31/07/2012 ;

(e) The land comprised in Gat No. 414 was purchased from Sitabai Bhimrao Waghmare and others vide sale deed dated 08/10/2015;

(f) The land comprised in Gat Nos. 422 and 428 were purchased from Dinkar Ganpat Waghmare and others vide sale deeds dated 12/11/2012, all after due permission of the collector in which context respective mutation nos. 9222; 9224; 9223, 9228; 9225 and 9227; 11754; 9385 stand recorded in its favour.

(g) It was claimed inter-alia, therein that owners of land comprised in Gat Nos. **400 and 419** had "applied" to the Collector for requisite permission to sell the said land to the objector herein which was awaited.

2. Review of the order dated 23/02/2018 is sought on the following grounds :-

(i) The objection petition was accompanied with voluminous documents such as mutations and sale deeds etc in Marathi language and translation thereof took time because the Advocates are Delhi based but they were not given time to produce translations thereof as the tenure of this committee was only for three months.

(ii) The order dated 23/02/2018 was passed in haste without giving an opportunity to the applicant to file additional documents such as bank statements to substantiate the objections raised.

(iii) The name of M/s Greenfiled Esates as having been the purchaser of the property in question has cropped up for the first time in the impugned order dated 23/02/2018.

(iv) The case of the objectors herein is at par with that of Sh. Rajesh Jiwan Uttam Chandani & Sh. Govind Jiwan Uttam Chandani whose objection petition has been accepted by this committee vide order dated 27/03/2018.

(v) The balance of convenience lies in favour of the applicant/objectors.

(vi) The objection petition had also mentioned purchase of Gat No. 428 from Dinkar Ganpat Waghmare and others but the said Gat No. has not been dealt with in the order in question.

R. Ghosh
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3. I have heard the learned counsel for the applicant and have gone through the case file in the light of the provisions contained in order 47, rule 1 of the code of Civil Procedure, 1908 read in the backdrop of observations of the Hon'ble Supreme Court in the case titled Board of Control for Cricket in India and another Versus Netaji Cricket Club and others reported in (2005) 4 Supreme Court Case 741. In the light of the same the application in hand is held to be maintainable but the question is whether it should be allowed as a matter of routine or whether it should be allowed in routine or whether the applicant should be burdened with special costs because the delay in not filing the documents is not confined to in non-appending of the same to the objection petition submitted to the Nodel Officer cum Secretary of the Committee but continued till the objection petition was disposed of vide my order dated 23/02/2018 after hearing the arguments put forth on behalf of the objector. The default is aggravated by non-appending the bank statements which form the basis of their claim of being bonafide purchasers for value of the property in question. The default is further confirmed it by the fact that the order dated 23/02/2018 has been sought to be reviewed belatedly almost two months later i.e. on 20/04/2018. In the facts and circumstances enumerated above the application for review is entertained subject to deposit of Rs.1,00,000/- (One lakh) as costs to be deposited with NRO, SEBI on or before 25/07/2018. It is hereby made clear that in the event of the costs as above mentioned not being deposited, the application for review shall be deemed to be dismissed in view of the gross delay as detailed above.

Date : 10/07/2018


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 : 10/07/2018


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