

**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. 535**

**MR Nos. 9901-15, 26018-16, 26049-16**

**Objector :** Mr. Rajagopal s/o Late Munivenkatappa

**Argued by :** Sh. Sudheer H.M., Advocate, Bangalore (Enrolment No. KAR/428/2005)

**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. For some inexplicable reasons best known to the objector herein, this objection petition has been instituted on 08/08/2018 despite the fact that the order of the Supreme Court dated 15/11/2017, quoted in my designation head note above, clearly specified that such like matters were to be dealt with on an urgent basis and I was required to submit my report within four months, to be computed from the date of my joining (which was 06/12/2017). My appointment for dealing with objections/representations in the matter of PACL Ltd was duly notified in SEBI Press release no. 66 dated 08/12/2017. No doubt, my tenure was subsequently extended by the Hon'ble Supreme Court vide orders dated 13/04/2018 and 02/07/2018, yet the objectors herein have no justification in having not filed the objections in hand expeditiously, soon after attachment of the properties in question herein, following the order of the Hon'ble Supreme Court dated 02/02/2016 in Civil appeal No. 13301/2015 titled Subrata Bhattacharya Vs SEBI. The objection petition in hand should in fact have been filed shortly after my taking up this assignment on 06/12/2017.

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*27/9/18*

3. (a) The objector above named seeks delisting of the land situated at Village Bychapura, Kasba Hobli, Taluk Devanahalli, District Bangalore (Rural) comprised in Survey No. 47/2 (01 acre 02 guntas), Survey No. 47/3 (06 guntas), Survey No. 56/4 (01 acre 11 guntas) and Survey No. 57/4 (old no. 57) 09 guntas.

(b) It is claimed that the land as detailed above was earlier sold by one Y.C. Satish Kumar vide registered sale deed no. 1275/10-11 dated 01/07/2010 (copy whereof is Annexure B-2 at pages 20-53 of the objection petition) in favour of Prateek Kumar for an amount of Rs.81,00,000/- which amount was statedly paid vide cheque no. 416643 dated 16/01/2011. However, **supporting bank transactions have not however been produced on record.**

*Moreover, it is quite perplexing to note as to how can the payment statedly made subsequently vide cheque no.416643 dated 16/01/2011 find mention in the sale deed no. 1275/10-11dated 01/07/2010 registered prior thereto?*

(c) It may also be pointed out that just one day prior thereto, that is on 30/06/2010, Y.C. Satish Kumar above named, had executed sale agreement no. 1224/10-11 dated 30/06/2010 (copy whereof is Annexure B-1 at pages 05-19 of the objection petition), qua the same land, in favour of K. Muniraju agreeing to sell the same land as detailed in para 3 above, for an amount of Rs.81,00,000/- and out of which, Rs. 80,95,000/- was paid by the proposed purchaser namely K. Muniraju vide cheque no. 102727 dated 30/08/2010, which is not claimed to have been cancelled nor the aforementioned amount of Rs. 80,95,000/- refunded.

(d) It will thus be seen that Y.C. Satish Kumar above named, was simultaneously offering the same land to two different persons namely Prateek Kumar and K.Muniraju and accepting money from both of them.

(e) On the basis of above referred sale deed no. 1275/10-11 dated 01/07/2010 (copy whereof is Annexure B-2 at pages 20-53 of the objection petition) Prateek Kumar above named had statedly sold the said land vide registered sale deed no. 10964/1979-80 dated 11-02-2016 in favour of the objector herein namely M. Rajagopala (copy whereof is Annexure B-5 at page 84-96 of the petition) in pursuance of sale agreement no.3780/15-16 dated 05/08/2015 (copy whereof is Annexure B-3 at page 55-68 of the objection petition) and irrevocable power of attorney, also dated 05/08/2015 (copy whereof is Annexure B-4 at page 69-83 of the objection petition). It may also be noticed that the amount of sale consideration forming the subject matter of sale deed no. 10964/1979-80 dated 11/02/2016 (copy whereof is Annexure B-5 at page 84-97 of the objection petition) has not been specified in the said sale deed and

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in fact it is mentioned therein that the entire sale consideration was paid at the time of execution of sale agreement no.3780/15-16 dated 05/08/2015 (copy whereof is Annexure B-3 at page 55-68 of the objection petition) which agreement of sale mentions the sale consideration to be Rs. 1,61,40,000/-(One crore sixty one lakhs forty thousand) which was statedly paid vide cheque no. 593423 (date not mentioned) drawn on Canara Bank, Hebbal Branch, Bangalore. **Supporting bank transactions have not however been produced on record.**

4. The objector thus claims title to the land in question on the strength of registered sale deed no. 10964/1979-80 dated 11/02/2016 (copy whereof is Annexure B-5 at page 84-97 of the objection petition) executed in his favour by Prateek Kumar.
5. In the absence of any material being available on the file regarding the source of hefty amounts of total money to the tune of 1,61,40,000/-(One crore sixty one lakhs forty thousand) involved in the purchase of the different parcels of land as under attachment as detailed above, the objector above named cannot be considered to be genuine owner of said lands because the money collected by way of "collective investment scheme" without obtaining requisite permission under Section 11AA of the Securities and Exchange Board of India Act, 1992 from millions of investors on false pretexts of multiplied returns has been misappropriated by PACL for buying property in personal names of its associates, or companies, to the exclusion of the gullible investors and apparently used in the purchases of lands forming the subject matter of the above detailed nine objection petitions. No legal sanctity can therefore be attached to the various sale transactions relied upon by the objectors in the above noted objection petition. I stand fortified in my above view from the observations of the Hon'ble Supreme Court in the case bearing the title S. P. Chengal Varaya Naidu (Dead) By Lrs. Versus Jagannath (Dead) By Lrs. and others reported in (1994) 1 Supreme Court cases 1 wherein it was held that "*a fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is 'cheating' intended to get an advantage*". It was further held therein that:-


*"Fraud avoids all judicial acts, ecclesiastical or temporal observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and nonest in the eyes of law. Such a judgment / decree by the first court or by the highest court has to be treated as a nullity by*

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*every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings."*

6. On the above analogy, the question of utilization of misappropriated money in acquiring ownership of the lands detailed above can certainly be looked into by this committee.
7. In view of the foregoing discussion, the objection petition in hand is hereby dismissed.


**Date : 27/09/2018**

  
**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 : 27/09/2018**

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