

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. 570 (For review of order dated 05/02/2018 File No. 375)

MR Nos. 15420/16, 11806/16, 11803/16,
11815/16, 15426/16, 11804/16,
15419/16, 11815/16, 14460/16,
11807/16, 31276/16, 15422/16

Applicant Objector : M. Kannan.

Argued by : Shri G.Senthil Mani, Advocate, Delhi
(Enrolment No.D/2575/2009)

Order :

1. Objection petition no. 375 filed by the applicant herein against attachment of land bearing Survey Nos. 364/3, 365/1, 367/1B2, 367/2, 369/3A, 369/3B, 369/3C, 371/1, 374/4B, 376/1, 376/5A, 350/4, 242/2, 346/5, 350/5, 369/1B, 369/2A, 366/1, 274/2, 274/2, and 368, measuring 41.99 acres in all, situated at village Ayyanreddiyarpatti, Kariyapatti Taluk, Virudhunagar District as attached by the committee and indicated on its website www.auctionpacl.com with specific reference to MR Nos. detailed above as (given by the CBI during the course of investigation) was earlier dismissed vide my order dated 05/02/2018. The said order was soon thereafter uploaded on SEBI website www.sebi.gov.in/PACL.html vide Catalogue No. 43.
2. By way of the application in hand dated 24/08/2018, the applicant seeks review of my above referred order dated 05/02/2018 on the ground that in response to notice dated 22/12/2017 issued to him by me for 10/01/2018, his advocate Mr. Karuppiah had appeared on his behalf at whose request the case was adjourned to 05/02/2018 for arguments on which date however none appeared on his behalf, leading to the objection petition being dismissed on the said date.
3. I have heard the learned counsel for the applicant objector. Operative portion of the dismissal order in question dated 05/02/2018, passed on merits of the case and not by

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way of dismissal thereof in default of appearance is being reproduced verbatim hereunder for facility of ready reference :-

“(a) The above name objector for some inexplicable reason has not appended even a single document such as copy of the alleged sale deed No. 4627/2012 or copy of mutation referred to in the objection petition. He has also not produced any copy of revenue record showing his alleged vendor Murugan to have been the owner of the said properties. After due service of notice through Speed Post, one Advocate named R. Kuruppiah (Enrolment No. MS3252/10) from Tamilnadu had appeared on his behalf on 10-01-2018 on which date the case was adjourned for today for arguments but neither he nor anyone else has appeared on behalf of the objector today.

(b) A perusal of the various entries against **MR Nos.** (as given by the CBI during the course of investigation) detailed in this order above as extracted from the objection petition in hand reveals that neither the objector Kannan is described as the purchaser nor Murugan as the seller of any of the various parcels of land, total measuring 41.91 Acres, detailed in para 2 of this order above.

(c) As no supporting documents whatsoever exists on record to substantiate the claim of the objector, the objection petition in hand is liable to be and is hereby dismissed.”

4. The order dated 05/02/2018, operative part whereof has been reproduced in para 3 of this order above, as now sought to be reviewed, can neither be considered to be erroneous and nor can it be said to be suffering from any “error apparent of record” to warrant correction thereof. I stand fortified in this view from the observations of the Hon’ble Supreme Court in Grindlays Bank Ltd. Versus Central Government Industrial Tribunal and others reported in 1981 Supreme Court Cases (L&S) 309 wherein it was held inter-alia as under :-

“Different considerations arise on review. The expression 'review' is used in two distinct senses, namely

(i) a procedural review which is either inherent or implied in a court or Tribunal to set aside a palpably erroneous order passed under a misapprehension by it, and

(ii) a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record.


It is in the latter sense that the Court in Narshi Thakershi's case held that no review lies on merits unless a statute specifically provides for it. Obviously when a review is sought due to a procedural defect, the inadvertent error

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committed by the Tribunal must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every court or Tribunal.”

5. Infact, review of the said order if undertaken would tantamount to my sitting in appeal over my own order which is impermissible as per the principles enunciated in state of West Bengal Versus Kamalsen Gupta reported in (2008) 8 SCC 612 (Supra).
6. In view of the foregoing discussion, the application in hand for review of my earlier order dated 05/02/2018 passed in objection petition no. 375 is hereby dismissed.


Date : 12/10/2018


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 : 12/10/2018


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