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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

I.A NO. 140630 OF 2019

IN

CIVIL APPEAL NO(s) 13301 of 2015

IN THE MATTER OF:

Subrata Bhattacharya

...Petitioner

Versus

Securities and Exchange Board. of India

...Respondent

I.A NO.                      OF 2019

AN APPLICATION FOR PASSING AN APPROPRIATE  
ORDER/ DIRECTION

PAPER BOOK

(KINDLY SEE INSIDE FOR INDEX)

ADVOCATE FOR THE RESPONDENT AVIJIT MANI TRIPATHI

Mob-8851116483  
(Clerk Sonu)

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**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
I.A NO.            OF 2019  
IN  
CIVIL APPEAL NO(s) 13301 of 2015**

**IN THE MATTER OF:**

Subrata Bhattacharya

...Appellant

Versus

Securities and Exchange Board of India

...Respondent

**IN THE MATTER OF:**

Pinnacle Self Supporting  
Co-operative Welfare House building Society Ltd.  
Through its President  
Having Registered Office at GH-3, Sector 104, Pearl  
City, Mohali, Punjab

...Applicant

**AN APPLICATION FOR PASSING AN APPROPRIATE ORDER/DIRECTION SO AS TO PROTECT RIGHTS AND INTERESTS OF THE APPLICANT SOCIETY AS WELL AS ITS EXECUTIVE MEMBERS FROM THE PROCEEDINGS/LITIGATIONS PENDING BEFORE THE SUB-ORDINATE COURTS/AUTHORITIES/CONSUMER FORAS AGAINST THE APPLICANT SOCIETY AND ITS EXECUTIVE MEMBERS.**

To

The Hon'ble Chief Justice of India  
And His Companion Judges of the  
Hon'ble Supreme Court of India.

The application of the applicant above named:

**Most Respectfully Showeth: -**

1. That the instant application is being filed by the applicant society seeking for providing protection to the rights and interests of the Applicant Society as well as its Executive Members from the proceedings/litigations

pending before the sub-ordinate courts/authorities/consumer foras against the applicant society and its executive members till the final adjudication of IA No.38337/2019 & IA No.38345/2019 filed by the applicant society in Civil Appeal No.13301/2015.

2. That most humbly submitted that the Executive members of the said society are professionals, The President and the Secretary are practising as advocates in the Hon'ble Punjab and Haryana High Court, who brought together a few members from their family and friends circle to build affordable housing by seeking allotment of a group housing site vide G.H. Site No.3, Sector 104, Pearls City, Mohali Punjab , which was developed and promoted by PACL.
3. That the said society has got embroiled in the litigation between (SEBI Vs Pearl) vide Civil Appeal No. 13301/2015, which is pending before this Hon'ble Court. The said Society has no role in any manner and rather has filed petitions/ applications to seek refund of the amount that it had deposited in PACL.
4. That the Applicant has come before this Hon'ble Court in a state of great duress, distress and despondency because of the multitudinous litigations which have been personally heaped upon the Executive members of the society by other members before different Courts, Tribunals and Government bodies. These litigations are

having a cascading effect on the personal and professional lives of the Executive members for no fault of theirs. The President and the Secretary of the said Society are being personally subjected to harassment, intimidation and personal financial accountability, for which they have no means and resources.

5. That the applicant society has collected money from its members who are professionals from all walks of life including practising advocates who have invested their hard earner money for allotment and purchase of land from PACL for the purpose of building a residential society for themselves. Despite making payments of substantial amount, the land has not been made available to the Applicant Society till date, nor has the money taken by PACL been returned to the applicant society.
6. That subsequently, the applicant society came to know that this Hon'ble Court had passed one order dated 02.02.2016, constituting the committee, consisting of officials of Security Exchange Board of India officials and appointing Hon'ble Mr. Justice R.M. Lodha is the former Chief Justice as its Chairman with the direction to sell the land owned by PACL Limited and to pay to the investors of the said company. However, it was also observed therein that the decision with regard to sale of the property of the company by the said committee shall not be interfered with by any Court.

7. That after passing of order dated 02.02.2016, 'the applicant society was not in a position to start any kind of construction activity at the site in question. Accordingly, the applicant society put their best efforts and through its executive members approached the company i.e. PAQL Limited who had allotted the land to the applicant society for carrying out the needful. Even, the applicant society represented to the committee constituted by this Hon'ble Apex Court through representation dated 14.05.2016. Since, the said Retired District Judge Sh. R.S. Virk did not decide the issue raised by the applicant society vide order dated 14.03.2018. The applicant society had moved one another IA No.65030 of 2017 in the above said Civil Appeal No. 13301 of 2015 was taken up for hearing on 12.02.2019. On the said date of hearing, the said application has been allowed to be withdrawn with the liberty to file fresh application seeking any other alternative prayer other than the refund of the amount deposited.
8. That thereafter, the applicant society moved two interlocutory applications before this Hon'ble Court vide IA No.38337/2019 which was seeking impleadment of the applicant society in C.A. No.13301 of 2015 along with instant I.A. No.38345 of 2019 in C.A. No.13301 of 2015 seeking following directions from this Hon'ble Court:

→ "Allot the allotted land by considering the collector rate of Agriculture land @ 1,98,98,000/- per acre (Rs.81.00 lacs is the prevalent collector rate of the Agricultural land and Rs.1,17,98,000/- approximately being re-imbusement of the statutory charges paid by the company towards change of land use, external development and internal development charges to the statutory authorities i.e. Greater Mohali Area Development Authority, S.A.S. Nagar, Punjab) as is where is.. basis and incidental steps may be taken care of accordingly as detailed in para no. 24, 37 to 40 above.

Or/alternatively

Allot the area of the allotted site at the present collector rate of fully developed site @ Rs.11,400/- per sq. yard equivalent to the amount of Rs.15.10 Crore already paid to the company after giving benefit/deduction of amount due to non-development of site and its area.

Or in alternative

Allotment of part of the allotted site equivalent to the amount of Rs.15.10 Crore already paid to the company on the price mentioned in MoU dated 13.08.2011 and also may order for payment of interest compensation @ 18 % per annum on the invested amount of Rs.16,07,49,472/- from the date of its deposit to the date of allotment of part of the above said site as proposed hereinbefore in terms of the law laid down in the case of Ghaziabad Development Authority Vs. Balbir Singh, (Civil Appeal No.7173 of 2002, decided on 17.03.2004);

and



Protect the interest of society and its members during the pendency of the present petition.”

9. That the both the said applications came up for hearing before this Hon'ble Court on 11.07.2019 but inadvertently and due to clerical error IA No.38337/2019 has been clubbed with IA No.75165/2019 and IA No.75156/2019 and were dismissed as withdrawn. Whereas, IA No.38349/2019 had been dismissed for want of prosecution vide order dated 11.07.2019. Immediately, thereafter, two applications i.e. IA No.106305 of 2019 & IA No. 106288 of 2019 have been filed one for recalling of order dated 11.07.2019 passed by this Hon'ble Court in IA No. 38337/2019 in Civil Appeal No.13301/2015 and other for restoration of IA No.38337/2019 in Civil Appeal No.13301/2015. Accordingly, counsel for the applicant society also made the mentioning for listing of the said IA's before the concerned bench of this Hon'ble Court. The said applications are pending before this Hon'ble Court for hearing on 20.09.2019 tentatively. Further, the contents of the said applications may be read as part of the instant application.
10. That since the land which was purchased by the applicant society from the PACL Limited for construction of the flats has now become subject matter of order dated 02.02.2016 passed by this Hon'ble Apex Court and consequently, subject matter of the above

committee constituted by this Hon'ble Apex Court vide order dated 02.02.2016. Accordingly, no sub-ordinate court could interfere in this matter as per order dated 02.02.2016 Supra. Thus, until and unless the aforesaid issues raised by the applicant society vide letter dated 18.12.2015 and raised in the subsequent representations and in IA No. 38337/2019 & IA No.38345/2019 filed before this Hon'ble Court, the Society has been unable to proceed further in the matter. Thus, the applicant society has been completely affected by order dated 02.02.2016 and would proceed further only on the directions of this Hon'ble Apex Court.

11. That it is pertinent to mention here that the amount Rs.16,07,49,472/- so collected from the members of the applicant society stood paid to the said company i.e. PACL Limited as part payment of the total sale consideration of the allotted land and spent on taking approvals. Moreover, since the applicant society is a self financed registered housing society, the same has no other source of funds except collection of funds from its members that too for construction of their houses. Thus, the applicant society has no inflow of funds from its members as its main activity of construction of flats could not take place due to passing of order dated 02.02.2016 passed by this Hon'ble Apex Court.
12. That the applicant society which is having 141 members has going through this highly stressful ordeal or a state

of living hell, for no fault/role of theirs in the matter as the applicant has effected sever due to legal indulgence between the Pearl Group and SEBI. Further, the members of the applicant society who have been looking for their respective flats in near future and on account of the problem plaguing the company and failure of the company to do the needful in terms of MOU and subsequent letter of the Company dated 18.12.2015 had already initiated litigations in bulk before the Consumer Fora and other judicial and quasi judicial forum against the applicant society. However, the applicant society is not in a position to ameliorate and redress their grievances because of the aforesaid facts and circumstances which have been beyond its control.

13. That even in one case titled as Sunita Gupta Versus The Pinnacle Co-operative Self Supporting Welfare Housing Building Society Ltd & Anr. the Ld. District Consumer Disputes Redressal Forum, S.A.S. Nagar allowed the complaint with the direction to refund the amount paid by member of the applicant society to the applicant society alongwith interest and cost vide order dated 26.08.2015. Aggrieved against the said order, the applicant society has filed F.A. No. 70/2016 titled as The Pinnacle Co-operative Self Supporting Welfare House Building Society Ltd. Versus Sunita Gupta which has been consequently dismissed by the Ld. State Consumer Dispute Redressal Commission, Punjab

Chandigarh vide judgment dated 21.09.2018 upholding an order dated 26.08.2015 passed by the Ld. District Consumer Disputes Redressal Forum, S.A.S. Nagar, Mohali (Punjab) in Consumer Complaint no.688/2014.

14. That recently, the applicant society received summons from the Ld. Consumer Forum, S.A.S Nagar, Mohali in execution no.93/2019 titled as Sunita Gupta Versus The Pinnacle Co-operative Self Supporting Welfare House Building Society Ltd. Accordingly, the applicant society appeared before the Ld. Consumer Forum on 20.08.2019 and sought a date on the ground that the applicant society had already approached before this Hon'ble Court for redressal of its grievances, but the said request had been straight away rejected by the Ld. Consumer Forum with the direction to the applicant society to comply with the order dated 26.08.2015 passed in consumer complaint no.688/2014 titled as Sunita Gupta Versus The Pinnacle Co-operative Self Supporting Welfare House Building Society Ltd or get an interim order from the Hon'ble Apex Court. Now, the said execution application is pending for 27.09.2019 before the Ld. Consumer Forum, S.A.S Nagar, Mohali for compliance of the order passed in the above said consumer complaint. A copy of summons issued in execution is being enclosed and marked herewith as

**Annexure A/22. [Page No. 15].**

15. That in view of the above said facts and circumstances, the applicant society requires urgent direction from this Hon'ble Court to protect the interest of applicant society by staying of litigations/proceedings pending before the Sub-Ordinate Courts /Authorities /Consumer Foras against the applicant society and its Executive Members till the final adjudication of IA No.38337/2019 & IA No.38345/2019 filed by the applicant society in Civil Appeal No.13301/2015 as there is every likelihood that the proceedings in Civil Appeal No.13301/2015 will consume a lot of time till the same being resolved as the issue involves in the said appeal is a multifaceted complex issue and interests of large number of persons/firms have been involved therein. Thus, in the given facts & circumstances the applicant society has been facing hard ship in cases pending before the subordinate Courts/Authorities /Consumer Foras on day to day basis more particularly, when there is no specific order for staying the proceedings in favour of the applicant society.

16. That in case, the present situation is allowed to continue and the issues raised by the applicant society are not being resolved at an early date, the time is not far off when there would be multiplicity of litigation which would be experienced by the applicant society and its executive members for none of their fault. Moreover, the concerned authorities, courts and fora

would keep on proceeding further in the matters pending before them. Ultimately, the applicant society would have to face wrath of the directives/orders passed by sub-ordinate courts/Authorities /Consumer Foras more particularly, when compliance thereof would not be possible at the end of the applicant society and its executive members due to the aforesaid stalemate. Further, in case the relief prayed by the applicant society is not granted by this Hon'ble Apex Court, the applicant society and its executive members will suffer irreparable loss and injury as well as harassment which cannot be compensated in any manner whatsoever. Furthermore, the same shall lead to multiplicity of cases and unwarranted litigation.

17. Thus, keeping in view the aforesaid facts and circumstances and uncertain situation, neither the applicant society nor its executive members could offer any proposal to the members of the applicant society nor the applicant society is in a position to make any kind of statement before the sub-ordinate courts /Authorities /Consumer Foras in the pending litigations. Thus, indulgence of this Hon'ble Court is sought by way of filing the present applicant so as to seek Redressal of its grievance.
18. That in case, the rights and interests of the applicant society as well as its executive members from the proceedings/litigations pending before the sub-ordinate

courts/authorities/consumer foras against the applicant society and its executive members be not protected by granting interim relief as prayed in instant application, the applicant society will suffer irreparable loss and injury which cannot be compensated in terms of money in future.

19. In view of the above facts and circumstances of the case, this Hon'ble Court, may graciously be pleased to:

- A. Protect the rights and interests of the applicant society as well as its executive members from the proceedings/litigations pending before the subordinate courts/authorities/consumer foras against the applicant society and its executive members till the final adjudication of IA No.38337/2019 & IA No.38345/2019 filed by the applicant society in Civil Appeal No.13301/2015.
- B. Pass such further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Filed and Drawn By

Drawn On: 12.09.2019  
Filed On: 13.09.2019

[AVIJIT MANI TRIPATHI ]

NEW DELHI

ADVOCATE FOR THE APPLICANT

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

I.A NO. \_\_\_\_\_ OF 2019

IN

CIVIL APPEAL NO(s) 13301 of 2015

**IN THE MATTER OF:**

Subrata Bhattacharya

...Appellant

Versus

Securities and Exchange Board of India

...Respondent

**IN THE MATTER OF:**

Pinnacle Self Supporting

Co-operative Welfare House building Society Ltd.

Through its President

Having Registered Office at GH-3, Sector 104, Pearl

City, Mohali, Punjab

...Applicant

**AFFIDAVIT**

I, Nikhil Saraf aged 46 years, Son of Sh. V.K.Saraf resident of House No. 51-52, Kansal Enclave, Near Kansal Village, Chandigarh, Authorized Signatory of applicant society herein do hereby solemnly affirm and declare as under:-

1. That I am the authorized signatory of the applicant society in the above application and am well conversant with the facts and circumstances and records of this case and am competent and duly authorized to swear this affidavit.





2. That I have read and understood the contents of the interlocutory application and I state that the contents thereof are true and correct to the best of my knowledge and belief.
3. That the Annexures are true copies of their respective originals and form parts of the record.
4. That no part of this affidavit is false and nothing material has been concealed there from.

  
**DEPONENT**

**Verification:**

I, the deponent above named do hereby verify that contents of the above affidavit are true to the best of my knowledge and belief and based on the record, no part of it is false and nothing material has been canceled therefrom.

Verified at \_\_\_\_\_ on this \_\_\_ day of September, 2019

  
**DEPONENT**

DISTRICT CONSUMER DISPUTES REDRESSAL FORUM, SAS NAGAR  
S.C.F. NO. 72, NEAR BASSI THEATRE, PHASE-2, S.A.S. NAGAR.. (MOHALI)

15

No. DCDRF/SAS Nagar/19/

Dated : 22-1-19

E.A. NO. 93/19 Dated 03/05/2019

Fixed For: 20/08/2019

Sunita gupta

vs.

Pinnacle Cooperative,

**NOTICE TO SHOW CAUSE,**

To,

1. The Pinnacle Co-operative Self Supporting Welfare House Bulding Society ltd.  
Regd. Office D-178,IFP phase-8 Second Address:  
  
The Pinnacle Co-operative Self Supporting Welfare House Building Society Ltd.  
Group Housing No. 3 Pearl City, Sector-104, S.A.S. Nagar, Mohali.
2. Sh. D.K. Singal, president, the Pinnacle CoOperative Self Supporting Welfare  
House Building Society Ltd. R.o. H. No. 109, Sector-16 Panchkula Haryana,  
134113
3. Sh. Nikhil, Secretary, The Pinnacle Co-Operative Self Supportin Welfare House  
Building Society Ltd. H. No. 2159, Sector 15C, Chandigarh.

Sub: - Execution Application No. 93/19 of 02/05/2019 in CC No. 688 of 2014  
Whereas CC. NO. 688 of 2014 filed by Sunita Gupta was Allowed by this  
Forum vide order dated 26/08/2015.

That Sunita Gupta has filed the application under Section 27 of the Consumer  
Protection Act, 1986. This is to give notice that you are to appear before this  
Forum on 20/08/2019 to show cause, why you be not punished under the said  
Section for non-compliance of the order, in case of failure to appear before this  
Forum, Warrant shall be issued to secure you presence.

Issued today on 15/07/2019 under my signatures and seal on the District  
Forum Mohali.

Sd/-  
Superintendent  
District Consumer Forum,  
S.A.S Nagar (Mohali)