

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

IA No. ~~945~~ of 2020

42490
IN

C.A. No. 13301/2015

IN THE MATTER OF:

SUBRATA BHATTACHARYA

...APPELLANT(s)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA & ORS.

..RESPONDENT(s)

IN THE MATTER OF INTERVENTION APPLICATION:

Sant Nirankari Mandal (Regd)

.....APPLICANT/OBJECTOR

Versus

Securities and Exchange Board of India

...RESPONDENT

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ADVOCATE FOR THE PETITIONER: (ANIS AHMED KHAN)

APPLICATION FOR INTERVENTION

To

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

The Special Leave Petition
Of the Petitioner abovenamed

MOST RESPECTFULLY SHOWETH:

- I. That this IA has been filed in the above said Civil Appeal as being aggrieved from the order/recommendations dated 23.12.2019 of the Hon'ble Shri R.S. Virk, District Judge (Retd.) in the matter of PACL Ltd. dated 23.12.2019 as passed in MR No. 20198/16 which have been dismissed by the Ld. District Judge (Retd.).
- II. That brief facts leading to the filing of the IA are set out in the following paragraphs.
 1. That the Applicant/Objector is the bona fide purchaser and absolute owner and has been in physical possession of the land in question i.e. land measuring 22 Kanal 13 Marla Salam Khewat Khatoni No. 68/90, Khasra No. 17//8/2/1(6-10), 9 (8-0), 10 (4-12), 11/1(1-7), 12/1(2-4) type

Gairmumkin, boundary wall area Village Kotla, Hadbast No. 237 Tehsil Chamkaur Sahib, District Rupnagar vide Jamabandi for the year 2010-11, which was purchased by way of a registered Sale Deed executed by M/s.Vrishank Realtors Pvt. Ltd. (Whose Prior Name was Harchand & Salim Realtors Pvt. Ltd.), which entered in into the revenue record, but later on this name was changed on 04.05.2013 in the Registrar of Companies (National Capital Territory Delhi and Haryana) alongwith all rights which were available to the Seller, including the right to passage alongwith sold by seller through the duly authorized A.R. Sh. Gurjeet Singh son of Late Sh. Dilbag Singh, as per board resolution dated 14.07.2014 in favour of the Applicant/Sant Nirankari Mandal (Registered) Delhi, purchased through the duly authorized A.R. Sh. Hakam Chand son of Ram Ditta Ram, for a total sale consideration of Rs. 3,20,00,000/- (Three Crores Twenty Lakhs only), registered before the Joint Sub-Registrar, Morinda, Punjab as Sale Deed, Document No.1138 dated 21.10.2014.

2. That mutation was also entered into in favour of the Applicant/Objector and the copy of mutation certificate dated 29.10.2014, was duly recorded in revenue record in favour of the Applicant/Objector.

3. That the amount of sale consideration was paid by the buyer that is the Applicant/Objector to the above named Seller by way of a cheque bearing number 539381 dated 20-10-2014 for a sum of Rs. 3,11,60,000/- (Three Crores Eleven Crore Sixty Lakhs only) drawn on Punjab National Bank, Rajpura Township (Patiala) Punjab, after appropriate deduction of TDS, which cheque was got encashed in the Corporation Bank, in the account No.047601601000383 of the seller M/s. Vrishank Realtors Pvt. Ltd.. The details is given below:

Khasra No.	Seller	Buyer	Sale Consideration	Sale Deed	Mode of payment	Mutation order & date
17//8/2/1 (6-10), 9 (8-0), 10(4-12), 11/1(1-7), 12/1(2-4)	Vrishank Realtors Pvt. Ltd. (Whose Prior Name was Harchand & Salim Realtors Pvt. Ltd.	Sant Nirankari Mandal (Regd) Delhi (through A.R. Sh. Hakam Chand	Rs. 3,20,00,000/- (Three Crores Twenty Lakhs only)	No. 1138. dtd 21.10.14	cheque bearing number 539381 dtd 20-10-14	29.10.14

4. That the M/s.Vrishank Realtors Pvt. Ltd. (Whose Prior Name was Harchand & Salim Realtors Pvt. Ltd.) purchased the land in question i.e. land measuring 22 Kanal 13 Marla, Salam Khewat Khatoni No. 68/90, Khasra No. 17//8/2/1(6-10), 9 (8-0), 10 (4-12), 11/1(1-7), 12/1(2-4) type Gairmumkin, boundary wall area Village Kotla, Hadbast No. 237 Tehsil Chamkaur Sahib, District Rupnagar vide Jamabandi for the year 2010-11, which was purchased by way of a registered Sale Deed executed by Smt. Sushma Rani wife of Sh. Ashok Kumar vide Sale deed document No.2378 dated 11-3-2011 duly recorded in revenue record vide Mutation No.322. including the right to passage for a total sale consideration of Rs. 70,00,000/- (Seventy Lakhs only), registered before the Joint Sub-Registrar, Morinda, Punjab as Sale Deed, Document No.2378 dated 11-3-2011. The attachment of the said property by way of attachment MR No. 20198-16 is erroneous.
5. That on 4th of May, 2013, Fresh Certificate of Incorporation Consequent upon Change of Name Harchand & Salim Realtors Pvt. Ltd. to M/s.Vrishank Realtors Pvt. Ltd. was issued by the Registrar of

Companies, National Capital Territory of Delhi and Haryana, and the relevant part is reproduced below:

"I hereby certify that Harchand & Salim Realtors Pvt. Ltd. which was originally incorporated on Sixteenth day of September Two Thousand Nine under the Companies Act, 1956 (No. 1 of 1956) as Harchand & Salim Realtors Pvt. Ltd. having duly passed the necessary resolution in terms of Section 21 of the Companies Act, 1956 and the approval of the Central Government signified in writing having been accorded thereto under Section 121 of the Companies Act, 1956, read with Government of India, Department of Company Affairs, New Delhi, Notification No. G.S.R. 507 (E) dated 24/06/1985 vide SRN B73382889 dated 04/05/2013 the name of the said company is this day changed to M/s Vrishank Realtors Private Limited and this Certificate is issued pursuant to Section 23(1) of the said Act."

6. That the possession had been delivered by the Seller to the Applicant/Objector and the buyer became the owner in possession and used the above land as per requirements. That the

Applicant/Objector has made a huge construction on the said land in the form of the Sant Nirankari Satsang Bhawan, Morinda, where hundreds of devotees make their prayers (Satsang) and on special occasions there is a huge gathering running into thousands. It is submitted that this land was declared as free from all sorts of encumbrance/charge and was earlier in possession of the Seller, duly reflected in the Revenue Record.

7. That the sale deed was executed and registered on 21.10.2014 in favour of the Applicant/Objector. That the Applicant/Objector enquired about the title holder of the land in question and found all lands and revenue records in favour of those title holder in accordance to the law. The Sale Deed document was presented by Sh. Gurjit Singh duly authorized representative of the Seller for registration on 21/10/2014 before the Joint Sub-Registrar, Morinda, Punjab. This document has been registered as Document No. 1138, with requisite stamp duty and was executed in accordance with law, thus protected under Indian Registration Act.
8. That an Order dated 02.02.2016 was passed by the Hon'ble Supreme Court of India in Civil Appeal No. 13301 titled Subharta Bhattachrya

Versus SEBI and other connected matters, whereby Justice (Retd.) R. M. Lodha Committee in the matter of PACL Ltd. was constituted for disposing of the land purchased by the Company so that the sale proceeds can be paid to the investors, who have invested their funds in the company. Thus what was to be disposed of by the Justice (Retd.) R. M. Lodha Committee was the properties which were purchased by the Company, and were in the name of the Company on 2.2.2016. It is submitted that the sale in question i.e. Sale Deed, Document No.1138 dated 21.10.2014 which was a bonafide transaction was much prior to the Honourable Supreme Court order dated 2nd of February 2016. The attachment of the said property by way of attachment MR No. 20198-16 was thus erroneous and perverse.

9. That Hon'ble Supreme Court in the order dated 4th of August 2017 directed the PACL limited to furnish details of properties that were still owned by PACL as on 4th of August 2017. In other words, the Order affected the only properties which were already available and owned by the Company as on 4th of August 2017, and the properties which were already sold prior to that date, the sale proceeds/sale

consideration of that became available as amounts for disbursement to investors. Thus such properties could not be attached and need to be released. The property sold in favour of the Applicant/Objector was much prior to February 2017 and, therefore the said sale deed being genuine and bona fide sale is entitled to be released in favour of the Petitioner/Objector.

10. That on account of the following reasons, the above land cannot be put in up for auction:

- a) Buyer has taken all reasonable care to ascertain that transferor had power to make transfer and acted in good faith.
- b) Properties in question was already legally sold to the Applicant/Objector.
- c) Complete payment made to the Vendor and registration, possession and mutation duly recorded in the name of Applicant/Objector, the purchaser in the revenue records.

- d) In case this objection petition is not allowed, then Applicant/ Objector will suffer irreparable loss and injuries which cannot be compensated.
- e) That above said sale deed is legally executed, duly registered after paying proper stamp duty and registration fee, complete sale consideration paid to the Vendor and mutation and possession been duly recorded in the name of applicants/objectors in the revenue records.
- f) That the Objector/Applicant, the Sant Nirankari Mandal is a religious, socio-spiritual Organization duly registered under the Registration of Societies Act since 1948 as Sant Nirankari Mandal (Regd.) with Headquarter at Delhi with 3000 Branches throughout India and abroad. The present application/objection on behalf of the Applicant has been signed, verified and instituted by Sh. Brijmohan Singh Sethi, who is duly authorised representative vide Resolution dated 8-5-2017.

- 11 That when the Applicant/Objector came to know that its property has been illegally attached, in the PACL matters as attachment no. attachment MR No. 20198-16, an Objection Petition was filed by the petitioner on 05.12.2019 Before the Hon'ble SH. R.S. VIRK DISTRICT JUDGE (RETD.).
12. That in response to the notice sent by the court of Sh. R.S. Virk, Dist. Judge (Delhi) (Retd.), with respect to PACL matters, a Reply dated 17.12.2019 was filed by the PACL Ltd..
13. Hon'ble SH. R.S. VIRK DISTRICT JUDGE (RETD.) was pleased to dismiss objection petition filed by the petitioner vide order dated 23.12.2019.
14. That aggrieved from the order/recommendations dated 23.12.2019 as passed in MR No. 20198/2016 the Applicant/Objector has moved to this Hon'ble Court through the Interlocutory Application already filed.
15. That this Application for Intervention has been filed with prayer to permit the Applicant to intervene in the above said matter since the Petitioner has filed Application/Objections against the

order/recommendations dated 23.12.2019 as passed in MR No. 20198/16 by the Hon'ble Shri R.S. Virk, District Judge (Retd.) in the matter of PACL Ltd., and for setting aside his order/recommendations dated 23.12.2019, and the consequential reliefs, in favour of the Applicant.

16. That the Applicant has not filed any other similar petition against the order/recommendations dated 23.12.2019 as passed in MR No. 20198/2016 by Hon'ble Shri R.S. Virk, District Judge (Retd.) in the matter of PACL Ltd, in any other Court of law.
17. That the OBJECTIONS TO THE ORDER/ RECOMMENDATIONS OF Hon'ble Shri R.S. Virk, District Judge (Retd.) in the matter of PACL Ltd., as passed in MR No. 20198/16, DATED 23.12.2019, has been challenged in the Application filed before this Hon'ble Court and the contents of the same may be taken as a part of this Application also and for the sake of brevity the same are not repeated here.

PRAYER

In the interest of justice, it is respectfully prayed that this Hon'ble Court may be pleased to :

- (i) Allow this Application for Intervention and permit the Applicant to intervene in the above said matter since the Petitioner has already filed Objections against the order/recommendations dated 23.12.2019 as passed in MR No. 20198/16 by the Hon'ble Shri R.S. Virk, District Judge (Retd.) in the matter of PACL Ltd., and for setting aside his order/recommendations dated 23.12.2019, and the consequential reliefs, in favour of the Applicant;
- (ii) Pass such other and further order or order as may be deemed fit and proper in the interest of justice.

Place: New Delhi
Drafted & Settled by:
(R.K.Kapoor), Advocate
Supreme Court of India
Filed on: 30.09.2020

(Anis Ahmed Khan)
Advocate on record for the Applicant.

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A F F I D A V I T O F

I, Brijmohan Singh Sethi, aged about 77 years, Executive Member, Land Purchase and Acquisition Department, Sant Nirankari Mandal, having its office at Nirankari Complex, Administrative Block, Nirankari Chowk, Delhi-110009, do hereby solemnly affirm and declare as under:-

1. That I am the Applicant in the above said Application and as such am fully conversant with the facts and circumstances of the case.
2. That I have gone through and understood the contents of the accompanying application filed in the above appeal. as explained to me in Hindi also and state that the statement of facts made therein is true and correct to the best of my knowledge and submissions made therein are based on legal advice and believed by me to be true and correct

to the best of my knowledge & belief.

DEPONENT

VERIFICATION:

The deponent verifies that the contents of the above affidavit are true and correct to the best of my knowledge and that nothing material has been concealed therefrom.

Verified at New Delhi on this 29th day of September, 2020

DEPONENT