

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I. A. NO. OF 2019

IN

CIVIL APPEAL NO. 13301 OF 2015

IN THE MATTER OF: -

Subrata Bhattacharya

..... Petitioner

Versus

Securities and Exchange Board of India

.....Respondent

AND

In the matter of

Investor Awareness Welfare Society.
registration No. 176 of 2016-17
registered office # 2158, Phase X,
Mohali, Punjab

..Applicant / Intervenor

I.A. No..... of 2019
Application for impleadment of the applicant.

PAPER BOOK

(FOR INDEX SEE INSIDE)

Advocate for the applicant :: RAVI KUMAR TOMAR

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2158, Phase X, Mohali, Punjab

..Applicant

Application for impleadment of the
applicant Under order 1 Rule 10 of
Code of Civil Procedure as a
party/intervener, in the present
matter.

To

The Hon'ble Chief Justice of India and

The other Hon'ble companion Judges

Of the Supreme Court of India, New Delhi.

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The humble petition of
the Petitioner above named

MOST RESPECTFULLY SHOWETH: -

1. That the above captioned matter has been filed by the petitioners against the final judgment and order dated 12.10.2015 ~~in~~ appeal No. 370 of 2014 passed by the SAT Mumbai, Maharashtra.
2. It is humbly submitted that the contents of aforementioned Civil Appeal may kindly be read as part and parcel of the present application and the same are not being repeated herein for the sake of brevity.
3. That the applicant is a Society registered under the Societies Registration Act (Act XXI of 1860) by the name of Investor Awareness Welfare Society with registration No. 176 of 2016-17 and comprises of the Investors of PACL Group and has been duly formed for the Representation and protection of the rights of the investors who made investment in the PACL Limited and in its subsidiary companies infamous for it's ponzi scam involving over Rs 49,100 crore, which was collected by cheating and fraud from over more than 5.5 crore investors.

4. That the present application is being filed through Sh. Brij Mohan, who is the President of the Society and has been duly authorized by the society to file the present application vide resolution dated 05-12-2019
5. That as the members of the Society are the persons who have made substantial investment in the PACL Group as such the present applicants are just and necessary party to the present Civil Appeal. The members of the applicant society have vested interest in the properties of PACL Group as they have invested their hard earned money with PACL Group, the properties of which are under sale in the present appeal.
6. That the Applicant submits that pursuant to the investigation by the SEBI into the business and activities of the PACL Ltd., the order dated 22.8.2014 came to be passed holding that the business activities of the PACL fell within the meaning of the collective investment scheme under the provisions at the SEBI Act and consequently the PACL was thereafter directed to refund the money collected by them to the investors.

7. That moving forward to attain the objective to refund the money collected by them to the investors this Hon'ble Court vide order dated February 02, 2016 in the CA No. 13301/2015, Subrata Bhattacharya Vs SEBI and other connected matters, constituted The Justice (Retd.) R. M. Lodha committee ("Committee") 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.
8. That this Hon'ble Court vide it's order dated 30.07.2019 observed "we also leave it open to the committee to receive any further offers and to explore them after duly publishing a further notice on the website. The intervenors in the present proceedings would be at liberty to submit their Expressions of Interest to the Justice Lodha Committee for evaluation. We clarify that we have not expressed any opinion on the 'viability' or the genuineness of the offers which are purportedly being placed on behalf of the intervenors and leave it to the Committee to take a decision in the matter."
9. That in pursuance of the aforementioned order the Committee had invited Expression of Interest (EOI)

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from prospective buyers clearly indicating therein, list of properties in each zone, its circle rate, the offer amount and other relevant details. Further proposal were invited by the committee for properties in one or more zone aggregating in value not less than Rs. 1000 crore. All proposals were to be submitted to the Nodal Officer cum Secretary, Justice (Retd.) R.M.Lodha Committee (In the matter of PACL Ltd.) either by email to committeepacl@sebi.gov.in or forwarded to SEBI Bhavan, BKC, Plot No.C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400051. All proposals received were uploaded on the SEBI website and recommendations of the Committee thereon were submitted to the Hon'ble Supreme Court.

10. That the applicant has also gone through the various Expression of Interest (EOI) from prospective buyers as uploaded on the SEBI website and in view of the above mentioned facts and circumstances it is very much necessary that the present applicant be also impleaded as an intervener in the present appeal to safeguard the interest of the investors and to place on record the various objections /recommendations/ submissions on behalf of the society/ Members.

11. That the applicant has no other efficacious remedy except to approach this Hon'ble Court in the peculiar circumstances of the present case and this Hon'ble Court has appropriate powers to give justice to the present applicant.

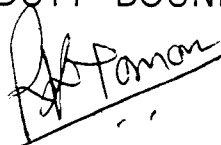
PRAYER

It is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:-

- i) Allow the present application and implead the applicant as party /intervener in the present Civil Appeal No, 13301 of 2015.
- ii) Any other order or direction which this Hon'ble Court may deem fit and proper be passed in favour of the applicant, in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE APPLICANT ABOVE NAMED, AS IS DUTY BOUND SHALL EVER PRAY.

New Delhi
Dated 10/12/19



(RAVI KUMAR TOMAR)

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—
AFFIDAVIT

I, Brij Mohan, aged about 47 years, S/o Sh. Roshan Lal, president Investor Awareness Welfare Society registration No. 176 of 2016-17 registered office registered office # 2158, Phase X, Mohali, Punjab, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am working as president for the applicant in the present matter and I am well conversant with the facts and circumstances of the present case and duly competent to swear the present affidavit on behalf of the applicant.

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2. That I have read and understood the contents of the accompanying application for impleadment as petitioners and objection and I believe to be true and correct to the best of my knowledge and belief.


Deponent

Verification;

Verified at New Delhi on this 10th day of December, 2019 that the contents of the above affidavit are true and correct to the best of my knowledge and belief. Nothing has been concealed therefrom.


Deponent

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And in the matter of;

Investor Awareness Welfare Society.

..Applicant

APPLICATION FOR IMPLEADMENT

Objections on behalf of the applicant /intervener i.e. Investor Awareness Welfare Society with registration No. 176 of 2016-17 to the EOI submitted vide public Notice dated Aug. 23, 2019 for sale of properties of PACL Limited.

	Name of the companies short listed	Assets (as per documents submitted	Liability	Other important financial remarks, stating why their Bid should not be

)	accepted
1	ASSESTS RECONSTRUCTIO N COMPANY (INDIA) LIMITED (OR ARCIL)	1945.00 Crores (which is having no meaning as ARCIL is doing as facilitator and payment will be done by prospectiv e buyers, whose net worth or assets will matter)	1. ARCIL had never bid for large number of properties in past, so they will have no experience in handling this volume of 3584 properties worth Rs. 1216.54 Crores. 2.ARCIL have no funds and be treated as facilitator only. Moreover as per their EOI (Expression of interest) para 1, Arcil within 3 months from the date of EOI acceptance by the committee, will co-ordinate with the prospective investors. There is much

			<p>probability that they may not have buyers in future on acceptance of EOI and matter got lengthen.</p> <p>2.ARCIL is imposing his own stipulations on committee/SEBI that SEBI should not accept any counteroffer post September 16,2019.</p> <p>However, may consider highest offer among such offers to conclude the process.</p> <p>3.Arcil's role would be limited to that of a facilitator. ARCIL would not be held liable for the failure on the part of the</p>
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			<p>prospective investors. In effect no pecuniary liability shall lie with ARCIL for failure on behalf of the prospective investor. This will result in further delay in justice and entire properties may go into dispute due to involvement of multi parties and responsibility of none.</p> <p>5. As per EOI para 5, it was assumed that the properties under sale are not hit by litigation or under any dispute, whereas these</p>
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			<p>properties are under dispute and acceptance of this EOI will vitiate the process in ab initio. As second party (Telecare network India Private Limited) has given his EOI that "many of these properties are having illegal occupation/Sealed by DDA/MCG and other municipal authorities in various states. Many other maintenance authorities have piled up huge amount of outstanding against many peroperties"</p> <p>6.As per EOI para 6, in the</p>
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			<p>event of any dispute ARCIL would not be made party to such dispute. If ARCIL is bidder in frontline, how can be possible that it may not be part of any dispute.</p> <p>Acceptance of EOI will further entangle the legal issues.</p> <p>7.As per EOI para 7, landCeiling restrictions would be relaxed to accommodate prospective bidders. This is state matter and it can be only done in legislative assembly. How the committee have jurisdiction</p>
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			<p>to this condition. So company is imposing his own conditions without looking into the complexities involved in it.</p> <p>9. In the EOI para 10, it was assumed that property/Title Document in original are with the committee. It may be possible that all original deeds may not be in possession of the committee. So ARCIL is presupposes all the things before bidding without having prospective buyers or sufficient funds.</p> <p>10. As per para 11 of EOI,</p>
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			<p>though the process for the same has started we request the committee to provide us with 2 month of time for verification of KYC documents of prospective investors and circle rate attached to the respective property, in case our EOI is accepted. So ARCIL has yet to do his homework which will entangle legal issues in future and presupposes all the things and stipulate conditions of committee rather than</p>
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			<p>accepting terms of Committee.</p> <p>11. As per last para of EOI, Last but not least, ARCIL will not provide any performance guarantee, as stipulated in committee's auction terms, which further strengthen that in case of dispute ARCIL will never be co-operate in future in deals to be finalised by ARCIL.</p> <p>12. It seems that rate quoted by Company are far below than expected market rates.</p>
2	<p>Telecare network India Private Limited (hereinafter called Company)</p>		<p>1. As per EOI, para c, an ARC (Assets</p>

			<p>Reconstruction Company) company was attached with us for the working of this proposal. It means, Company has not necessary infrastructure, experience, knowledge, Technical know-how, funds to get the bid completed.</p> <p>2. As per EOI, para e, company should be at the liberty to get the Sale Certificate in either our Company or the name of any nominees appointed by our Company. It further, seems that this company will also do as</p>
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			<p>facilitator and sold assets to outside parties.</p> <p>3. It seems those rates quoted by Company are far below than expected market rates.</p> <p>4. Company has given in para g of its EOI, that "many of these properties are having illegal occupation/Sealed by DDA/MCG and other municipal authorities in various states. Many other maintenance authorities have piled up huge amount of outstanding against many properties" So this entangle the legal position</p>
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			<p>and could not be solved easily and funds to be received against properties may be blocked.</p> <p>5. Lodging of cheque of Rs. 100.00 Crores will termed as acceptance of EOI, whereas total worth of the company is 67.17 crores as given in EOI. Encashing of this cheque of Rs. 100.00 cr. Only means company has to borrow the funds more than its worth, which will jeopardise the existence of the company and company may be in trouble by participating in</p>
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			<p>the bidding process.</p> <p>6. Company had never bid for large number of properties in past, so they will have no experience in handling properties worth Rs. 1149.23 Crores.</p> <p>Moreover this company is having worth of Rs. 67.17 Crores, which seems peanut considering the size of bid.</p> <p>7. In the EOI, net worth of Directors, Neetesh Gupta, Mukeshkumar Gupta and Deepesh Gupta is given, which does not show liquidity of</p>
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				<p>funds, Directors net worth represent only Land & Buildings, Shares of this company etc. which cannot be realised easily.</p> <p>8. In Balance sheet para 32, Related party disclosures, auditor has disclosed transactions of sale and purchase with related parties (mainly GDN Enterprises Pvt.Ltd.)This represents 41% of sale and 54-56% of purchase with related parties. So actual sale and purchase of the company is far less than</p>
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				that of depicted in financial statements. It seems that sale purchase figures are inflated in the financial statements submitted alongwith EOI.
3	Indo UK Institute of health			This is sort of NPO (non Profit organisations) and may not have sufficient funds to get the properties.

Other objections:-

- 1 That the applicant further submits that the process of inviting bids for large number of properties together is resulting in under valuation of properties.
- 2 That the applicant/intervener is aware and conscious of the fact that there are more than 25000 proprieties spread all over India which are to be sold. However the applicant /intervener most humbly submits that the option of online bidding may kindly be considered by appointing

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suitable/appropriate agency so that proper value /market value /best available price of the properties can be assessed and realized.

- 3 That the applicant /intervener most humbly submits that this Hon'ble Court may also consider appointment of suitable /appropriate bidders in each state and an effort be made to sell the property either individually or if that is not possible then District wise so that proper value /market value /best available price of the properties can be assessed and realized.



(RAVI KUMAR TOMAR)
Advocate for applicant


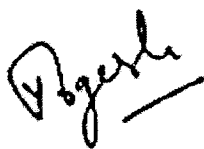

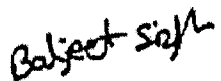
NEW DELHI
Dated 10/12/19

Investor Awareness Welfare Society
432-A Hazuri Bagh Colony Bhattian Ludhiana.

Copy of resolution dated:05.12.2019

RESOLUTION

"RESOLVED THAT Sh. Brij Mohan Son of Roshan Lal (President) of Investor Awareness Welfare Society is hereby authorized to sign all papers, applications, complaints, petitions, vakalatnama, affidavits and all other documents as may be required to be filed in the Hon'ble Supreme Court of India in connection with the proceedings of PACL pending in Civil Appeal No. 13301 OF 2015 in the matter titled as Subrata Bhattacharya Versus Securities and Exchange Board of India and to represent the Society in all other matters incidental thereto as may be considered necessary and expedient in the matter.

			
		Vikas Wahi	Signature

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**VAKALATNAMA
IN THE SUPREME COURT OF INDIA**

CIVIL/CRIMINAL/ORIGINAL/APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL/CRIMINAL) NO _____ OF 2019
WRIT PETITION (CIVIL/CRIMINAL) NO _____ OF 2019
CIVIL/CRIMINAL APPEAL NO. 13301 OF 2015

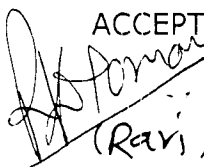
IN THE MATTER OF:

Subrata Bhattacharya Petitioner (s)
VERSUS
Securities and Exchange Board India Respondent(s)

I/We Applicant / Intervenor Petitioners
Appellant(s) Respondent(s) in the above Appeal / Petition do hereby appoint and
retain Ravi Kumar Tomar Supreme Court to act and appear for
me / us in the above Appeal / Petition / Review and on my / our behalf to conduct
and prosecute / defend the same and all proceedings that may be taken in respect
to any application connected with the same of any Decree or Order passed therein,
including proceedings in taxation and application for Review, to file and obtain
return of documents, and deposit and receive any money on my / our behalf in the
said Appeal / Petition and in application for Review, and to represent me / us and to
take all necessary steps on my / our behalf in the above matter, I/We agree to pay
his fees and our of pocket expenses, agree to ratify all acts done by the aforesaid
Advocate in pursuance of this authority.

Dated this the 10th day of Dec. 2019

ACCEPTED & IDENTIFIED / SATISFIED


(Ravi kx. Tomar)

by
Deepak Bansal Adv

(Brij Mohan)



Petitioner (s) / Petitioner (s)
Respondent (s) / Caveator (s)

MEMO OF APPEARANCE

To,
The Registrar,
Supreme Court of India,
New Delhi

Sir,

Kindly enter my appearance on behalf of the Petitioner (s) / Respondent (s) in the
above mentioned/matter

New Delhi:
Filed on: 10/2/19

 Yours faithfully

Ravi Kumar Tomar
Code 1702