

न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
Justice (Retd.) R. M. Lodha Committee
(पीएसीएल लि. के मामले से संबंधित / in the matter of PACL Ltd.)

संदर्भ सं. जेआरएमएलसी/पीएसीएल/
Ref. No. JRMLC/PACL/

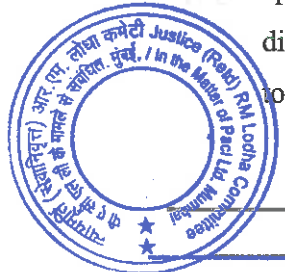
*Order in respect of the Objection filed by
M/s. Techno Electric & Engineering Company Ltd
SEBI/PACL/OBJ/NS/00071/2024*

BEFORE THE RECOVERY OFFICER, SEBI
ATTACHED TO
JUSTICE (RETD.) R.M. LODHA COMMITTEE
(IN THE MATTER OF PACL LIMITED)

File No.	SEBI/PACL/OBJ/NS/00071/2024
Name of the Objector(s)	M/s Techno Electric & Engineering Company Limited
MR No.	13363/16

Background:

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) on 22.08.2014 had passed an order against PACL Limited, its promoters and directors, inter alia, holding the schemes run by PACL Ltd. as Collective Investment Scheme (“CIS”) and directing them to refund the amounts collected from the investors within three months from the date of the order. Vide the said order, it was also directed that PACL Ltd. and its promoters/directors shall not alienate or dispose of or sell any of the assets of PACL Ltd. except for the purpose of making refunds as directed in the order.
2. The order passed by SEBI was challenged by PACL Ltd. and four of its directors by filing appeals before the Hon’ble Securities Appellate Tribunal (“SAT”). The said appeals were dismissed by the Hon’ble SAT vide its common order dated 12.08.2015, with a direction to the appellants to refund the amounts collected from the investors within three months.



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SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400051

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3. Aggrieved by the order dated 12.08.2015 passed by the Hon'ble SAT, PACL Ltd. and its directors had filed appeals before the Hon'ble Supreme Court of India.
4. The Hon'ble Supreme Court did not grant any stay on the aforementioned impugned order dated 12.08.2015 of the Hon'ble SAT, however, PACL Ltd. and its promoters/ directors did not refund the money to the investors. Accordingly, SEBI initiated recovery proceedings under Section 28A of the SEBI Act, 1992 against PACL Ltd. and its promoters/ directors vide recovery certificate no. 832 of 2015 drawn on 11.12.2015 and as a consequence thereof, all bank/ demat accounts and folios of mutual funds of PACL Ltd. and its promoters/ directors were attached by the Recovery Officer vide attachment order dated 11.12.2015.
5. During the hearing on the aforesaid civil appeals filed by PACL Ltd. and its directors (*Civil Appeal No. 13301 of 2015 – Subrata Bhattacharya Vs. SEBI and other connected matters*), the Hon'ble Court vide its order dated 02.02.2016 directed SEBI to constitute a committee under the Chairmanship of Hon'ble Mr. Justice R.M. Lodha, the former Chief Justice of India (hereinafter referred to as "the Committee") for disposing of the land purchased by PACL Ltd. so that the sale proceeds can be paid to the investors, who have invested their funds in PACL Ltd. for purchase of the land. In the said civil appeals, the Hon'ble Supreme Court did not grant any stay on the orders passed by SEBI and the Hon'ble SAT. Therefore, directions for refund and direction regarding restraint on the PACL Ltd and its promoters and directors from disposing, alienating or selling the assets of PACL Ltd., as given in the order, continues till date.



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6. The Committee has from time to time requested the authorities for registration and revenue of different states to take necessary steps and issue necessary directions to Land Revenue Officers and Sub-registrar offices, to not effect registration/mutation/sale/transfer, etc. of properties wherein PACL Ltd. and/ or its group or its associates have, in any manner, right of interest.
7. Also, the Hon'ble Supreme Court vide its order dated 25.07.2016 restrained PACL Ltd. and/ or its Directors/Promoters/agents/employees/Group and/ or associate companies from, in any manner, selling/transferring/alienating any of the properties wherein PACL Ltd. has, in any manner, a right/interest situated either within or outside India.
8. In the recovery proceedings mentioned in para 3 above, the Recovery Officer issued an attachment order dated 07.09.2016 against 640 associate companies of PACL Ltd. In the said order, *inter alia*, the registration authorities of all States and Union Territories were requested not to act upon any documents purporting to be dealing with transfer of properties by PACL Ltd. and / or the group/ associate entities of PACL Ltd. mentioned in the Annexure to the said attachment order, if presented for registration.
9. The Hon'ble Supreme Court, vide its order dated 15.11.2017, passed in Civil Appeal No. 13301/2015 and connected matters directed that all the grievances/ objections pertaining to the properties of PACL Ltd. would be taken up by Mr. R.S. Virk, Retired District Judge.
10. On 30.04.2019, in the recovery proceedings initiated against PACL Ltd. and Ors, the Recovery Officer issued a notice of attachment in respect of 25 front companies of PACL Ltd. Thereafter, on 01.03.2021, the Recovery Officer issued another notice of attachment



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in respect of 32 associate companies of PACL Ltd., which included 25 front companies of PACL Ltd. whose accounts were attached vide order dated 30.04.2019.

11. Vide order dated 08.08.2024 passed in *Civil Appeal No. 13301 of 2015 - Subrata Bhattacharya Vs. SEBI and other connected matters*, the Hon'ble Supreme Court has directed as under:

".....10. Since, we had directed in our order dated 25.07.2024, that no fresh applications or objections shall be filed before or entertained by Shri R.S. Virk, District Judge (Retd.) and that the same shall be filed before the Committee, the Committee may deal with such applications/ objections, if filed before it, and dispose them of as per the provisions contained under Section-28(A) of the SEBI Act....."

12. In compliance with the aforesaid order dated 08.08.2024 passed by the Hon'ble Supreme Court, all objections with respect to properties of PACL Ltd, which were pending before Shri R.S. Virk, Retired District Judge and all new objections, are now to be dealt by the Recovery Officer attached to the Committee.

Present Objection:

13. Present objection has been filed by M/s. Techno Electric & Engineering Company Limited, having its registered office at C-218, Ground Floor (GR-2), Sector -63, Noida, Gautam Buddha Nagar, Uttar Pradesh – 201307 and Corporate Office at 1B, Park Plaza, South Block, 71 Park Street, Kolkata - 700016 (hereinafter referred to as "**the Objector**"), in respect of the land parcels admeasuring 3.67 Acres of dry land (Punjai land) of land comprised in Survey Nos. 1751/1A(P) and 1751/1B(P) situated at Village - Madhavakurichi, Gram Panchayat - Madhavakurichi, Taluk – Tirunelveli, District –



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Tirunelveli, Tamil Nadu (hereinafter referred to as the “**impugned lands**”), covered in MR No. 13363/16. In the present objection petition, the Objector is represented by Mr. Vikram Jhunjunwala, who has been authorised to represent the Objector company, vide resolution of its board of directors dated November 10, 2023.

14. The Objector has submitted that it had purchased 253.25 acres of land in the state of Tamil Nadu to carry out its business operations relating to production of green energy under renewable energy scheme (REC). Accordingly, it installed 67 wind turbines in the said lands to generate green energy for a capacity of 111.90 MW in the state of Tamil Nadu. The said lands were purchased between 2010 and 2011 which had free, clear and unencumbered marketable title, vide registered sale deeds, admeasuring to a total extent of about 253.25 acres. The Objector has further submitted that it has paid valuable consideration which has also been recorded in the Sale Deeds with its name duly mutated in the revenue records of the Government and the encumbrance certificate entries with the SRO, Tirunelveli, reflects the name of the Objector as the purchaser. The Objector has contended that since purchase of the land parcel in 2011, it is in continued possession of the impugned lands.

15. The Objector has submitted that it had purchased the impugned lands from M/s. Shubh Realty (South) Private Limited for a total sale consideration of Rs. 2,68,000/- and the same was registered vide two separate sale deeds bearing document nos. 2692/2011 and 6007/2011 dated April 26, 2011 and September 09, 2011, respectively, at the Joint – II, Registrar of Tirunelveli, Tamil Nadu. It is submitted that M/s. Shubh Realty (South) Private Limited had purchased the impugned lands alongwith other land parcels from Mr. E.R. Siva Prasad and Mr. E. Dini Prakash through their power agent Mr. P. Srinivasan, and the



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same was registered as sale deed document no. 3261/2006 dated December 22, 2006 with Joint II Sub-registrar, Tirunelveli, District Tirunelveli. It is noted that Mr. E.R. Siva Prasad and Mr. E. Dini Prakash had become owners of the impugned lands by virtue of sale deed No. 1691/1999 dated August 07, 1999 registered at Joint II Sub-registrar, Tirunelveli, District Tirunelveli and was in possession of the same. Both the earlier owners had appointed Mr. P. Srinivasan as their power agent vide Power Deed Doc. No. 743/2006 dated August 28, 2006. Further, M/s. Shubh Realty (South) Private Limited had acquired another part of the same survey numbers from Arputham, Antony, Arulmani, Chandra, Mariya Pushpam, Rajammal and Jabamalai for valuable consideration vide registered sale deed bearing document No. 2861/2010 dated June 21, 2010 registered on the file of SRO, Tirunelveli.

16. With respect to the Power of Attorney dated December 03, 2003 executed by one Mr. T. Pradeep S/o Brabhakaran residing at 1749, Thusath, 36 Division Kochi Corporation, District, Kerala in favour of Mr. Tarlochan Singh S/o Shri Sadhu Singh residing at Bhojemajra Village & Post, Ropar Taluk and District, Punjab State and the Agreement to Sell dated February 07, 2003 executed between Mr. Pradeep as seller and M/s PACL Ltd. as purchaser with respect to the piece and parcel of lands of agricultural dry lands admeasuring 54.84 Acres including the impugned lands in Survey Nos. 1751/1A and 1751/1B, the Objector submits that the EC available at SRO Tirunelveli never disclosed the existence of such documents registered with SRO Ettiyapuram. It is the case of the Objector that mere execution of Agreement to Sell does not *per se* give any right for the erstwhile proposed purchaser to have an equitable interest over the scheduled property.

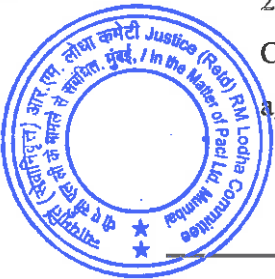


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17. In view of the above, the Objector has filed the present objection seeking release of attachment on the impugned lands and issuance of No Objection Certificate (NoC) in respect thereof.
18. The Objector was granted an opportunity of hearing on March 05, 2025 and the same was availed by the Objector by attending the said hearing through its Authorized Representative (AR) Mr. Abhinav Parthasarathy, Advocate virtually via WebEx. The AR reiterated the submissions made in the objection petition and further, while referring to the sale deeds dated April 26, 2011 and September 09, 2011, submitted that the present objection petition pertains to land parcels at Survey no. 1751/1A admeasuring 1.82 acres and Survey no. 1751/1B admeasuring 1.85 acres and that the GPA dated December 03, 2003, Agreement to Sell dated February 07, 2003 and December 03, 2003, Possession Certificate, Indemnity Bond and Will provided along with the reply filed by PACL Ltd. claiming the land parcel at Survey nos. 1751/1A and 1751/1B to be PACL properties cannot be taken into consideration, the said being null and void *ab initio*. The AR was provided time till March 14, 2025 to make additional submissions, if any. Vide email dated March 11, 2025, the AR submitted a gist of the submissions made by him on the date of hearing. Thereafter, vide letter dated March 12, 2025 (*received on March 15, 2025*), the AR has made the said submissions in hard copy which have been taken on record.
19. I have perused the documents seized under MR No. 13363/16. Under the said MR No. two documents are seized. One document is an Agreement to Sell (ATS) dated February 07, 2003 entered between Mr. Pradeep S/o Brabhakaran R/o 1749, Thusath, 36 Division Kochi Corporation, District, Kerala, as seller and PACL Ltd. as purchaser, with respect to agricultural dry land admeasuring 54.84 Acres comprised in 24 survey numbers (*including*



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Survey Nos. 1751/1A and 1751/1B) situated at Village – Mathavakurichi, Taluk – Tirunelveli, District – Tirunelveli, Tamil Nadu. From recitals to the said ATS, it is noted that total sale consideration for the land parcels sold under the ATS was Rs. 16,53,974/- out of which Rs. 4,00,000/- was paid by the purchaser in cash to the seller as on the date of signing of the said ATS and remaining balance sale consideration of Rs. 12,53,974/- was to be paid by the purchaser within one year whereupon the seller was obliged to handover the possession of the land to the purchaser. The said ATS is signed on stamp paper taken from Tis Hazari Court, Delhi. A receipt dated February 10, 2003, as appended to the ATS, shows that an amount of Rs. 12,53,974/- was received by way of cash from PACL Ltd. by the Seller. The said receipt was signed at Tirunelveli.

20. Another document seized under the said MR No. is a General Power of Attorney (GPA) dated December 03, 2003 given by Mr. Pradeep S/o Brabhakaran R/o Door no. 1749, Thusath, 36 Division Kochi Corporation, Kerala State in favour of Mr. Tarlochan Singh S/o Sandhu Singh R/o Bhojemajra – Village & Post, Ropar – Taluk and District, Punjab, with respect to land admeasuring 54.84 Acres comprised in 24 survey numbers (including Survey Nos. 1751/1A and 1751/1B) situated at Village – Mathavakurichi, Taluk – Tirunelveli, District – Tirunelveli, Joint II Sub Registration District Tirunelveli, Tamil Nadu. The said GPA bearing no. 398/2003 is registered in Book No. 4/398/03 in SRO, Ettiyapuram.

21. As can be noted from paras 19-20 above, Mr. Pradeep S/o Brabhakaran first entered into an ATS with PACL Ltd. on February 07, 2003 and thereafter, executed a GPA in favour of Mr. Tarlochan Singh on December 03, 2003. It has been noted that said Mr. Tarlochan Singh was the person in whose name PACL Ltd. and PGFL (an associate company of



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PACL Ltd.) used to purchase the properties. It is noted that ATS is unregistered whereas GPA is registered. With respect to the ATS, it is noted that as per Section 54 of Transfer of Property Act, 1882 (TPA), a contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself, create any interest in or charge on such property. However, the said ATS being agreement for sale of immovable property, gives right to the parties concerned to seek specific performance of such agreement. In terms of Article 54 of the Schedule to the Limitation Act, 1963, limitation period for seeking specific performance of a contract is 3 years from the date fixed for the performance of the contracts. A perusal of the Agreement to Sell reveals that total consideration amount as per said document was Rs. 16, 53,974/-. Out of this amount, Rs. 4,00,000/- was paid on the date of the Agreement to Sell, i.e. February 07, 2003, and remaining consideration was to be paid by the purchaser within one year from the date execution of the Agreement to Sell and the seller was required to hand over the possession of the land at the time of receipt of the balance sale consideration. As per receipt annexed to the Agreement to Sell, balance sale consideration Rs. 12,53,974/- was paid on February 10, 2003 at Tirunelveli, Tamil Nadu. Thus, the seller was required to deliver the possession of the scheduled property to the purchaser on the date of payment of the balance consideration which as per the receipt appended to the Agreement to Sell is February 10, 2003. Therefore, suit for seeking specific performance of the Agreement to Sell is now barred by limitation.

22. With respect to acquisition of title through unregistered Agreement to Sell dated February 07, 2003, reference may also be made to *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana (2012) 1 SCC 656*, wherein, *inter alia*, Hon'ble Supreme Court held as under:



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“24. We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of “GPA sales” or “SA/GPA/will transfers” do not convey title and do not amount to transfer, nor can they be recognised or valid mode of transfer of immovable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognised as deeds of title, except to the limited extent of Section 53-A of the TP Act. Such transactions cannot be relied upon or made the basis for mutations in municipal or revenue records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered assignment of lease. It is time that an end is put to the pernicious practice of SA/GPA/will transactions known as GPA sales.”

23. In view of the law laid down by the Hon'ble Supreme Court in *Suraj Lamp's case (supra)*, unregistered ATS does not convey any title in the immovable property covered thereunder, in favour of the purchaser. Regarding the applicability of Section 53A of TPA in the present case, it is noted that after the amendments made to Section 53A on 24.09.2001, unregistered agreement to sell is not protected under Section 53A of TPA. In the present case, the Agreement to Sell concerned is not registered. Therefore, Section 53A of TPA is not attracted *qua* the said Agreement to Sell. Moreover, the Objector has stated that it is in possession of the impugned lands. Therefore, there is no question of PACL Ltd. or its agent/employee being in possession of said land which can be protected under Section 53A of TPA.

24. Now, with respect to the GPA executed by Mr. Pradeep in favour of Mr. Tarlochan Singh dated December 03, 2003, it is noted that Section 17(1)(h) of the Registration Act, 1908, as applicable in the State of Tamil Nadu with State amendments, makes registration of



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instruments of Power of Attorney relating to immovable property other than those executed outside India compulsory. Thus, in the present case GPA was required to be registered, as it related to immovable properties which are situated in State of Tamil Nadu. As stated above, the GPA in the present case was registered at SRO, Ettiyapuram, Tamil Nadu. Regarding the correct place of registration of GPA, the reference may be made to Section 28 of the Registration Act, 1908 which provides for place for registration of documents relating to land. It is worth to mention here that State of Tamil Nadu has made certain amendments to Section 28 and in its application to State of Tamil Nadu, said Section 28 reads as under:

“28. Place for registering documents relating to land.—Save as in this Part otherwise provided, - (a) every document mentioned in clauses (a), (b), (c), (d), (e), (f), (g), (h) and (i) of sub-section (1) and sub-section (2) of section 17, in so far as such document affects immovable property and in clauses (a), (b) (c) and (cc) of section 18, shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate in the State of Tamil Nadu; and

Provided that every document mentioned in clause (h) of sub-section (1) of Section 17 may also be presented for registration in the office of the Sub-Registrar within whose jurisdiction the principal ordinarily resides.

(b) any document registered outside the State of Tamil Nadu in contravention of the provisions of clause (a) shall be deemed to be null and void.”

25. From the aforesaid provision of law, it is clear that the correct place of registration of any GPA pertaining to immovable property situated in the State of Tamil Nadu would be the office of the Sub-Registrar within whose sub-district the whole or part of the property to which the GPA relates, is situated in the State of Tamil Nadu. In the present case, the GPA



पता (केवल पत्राचार हेतु) / Address for correspondence only:

सेबी भवन, प्लॉट सं. सी4-ए, 'जी' ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400051
SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400051

न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
Justice (Retd.) R. M. Lodha Committee
(पीएसीएल लि. के मामले से संबंधित / in the matter of PACL Ltd.)

संदर्भ सं. जेआरएमएलसी/पीएसीएल/
Ref. No. JRMLC/PACL/

*Order in respect of the Objection filed by
M/s. Techno Electric & Engineering Company Ltd
SEBI/PACL/OBJ/NS/00071/2024*

executed between the parties thereto pertained to immovable properties which fell in the jurisdiction of SRO, Tirunelveli, Tamil Nadu and not in the jurisdiction of SRO, Ettiyapuram, Tamil Nadu where the GPA was actually registered. Thus, the registration of the present GPA was in contravention of the provisions of Section 28(a) and consequently, by virtue of Section 28(b), is to be deemed as null and void.

Order:

26. Given all the above, the objections raised by the Objector is liable to be allowed and is accordingly allowed.

Place: Mumbai
Date: April 16, 2025


MS. RESHMA GOEL
RECOVERY OFFICER



रेशमा गोयल / RESHMA GOEL
उप महाप्रबंधक एवं वसूली अधिकारी
Deputy General Manager & Recovery Officer
न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
Justice (Retd) RM Lodha Committee
(पीएसीएल लि. के मामले से संबंधित) / in the Matter of PacL Ltd. Mumbai