

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 objection filed by Mrs. Rajalakshmi Amar Deep
SEBI/PACL/OBJ/NS/00127/2024*

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/00127/2024
Name of the Objector(s)	Mrs. Rajalakshmi Amar Deep
MR No.	15731-16

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. 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.



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3. 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.
4. 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.
5. 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.



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6. 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.
7. 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.
8. 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.
9. 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 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.
10. 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:



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i. “.....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.....”

11. 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:

12. The instant objection has been filed by Mrs. Rajalakshmi Amar Deep, residing at Plot No.1, Yasin Enclave, Rameswaram Highway, Silaiman Bypass, Silaiman, Madurai, Tamil Nadu – 625201 (hereinafter referred to as the “**Objector**”) through her husband, Mr. Amar Deep Bhupathy objecting to the attachment of property, i.e. agricultural dry land admeasuring 0.78.5 Hectares/1.94 Acres, corresponding to Survey No. 189/25 situated in Pappanam Village, Kariapatti Taluk, Virudhunagar Dist, Tamil Nadu (hereinafter referred as the “**impugned property**”), due to attachment of property covered in MR No. 15731-16, which stands attached by the Committee.

13. The Objector in her objection petition has submitted that she had purchased the impugned property from one Mrs. Mahalakshmi via registered Sale Deed No. 3062/2018 dated 24.12.2018 for a total consideration of Rs.1,50,000/- after conducting proper due diligence. She has submitted the Encumbrance Certificate (EC) for the impugned property, Patta no. 1011 in her name and bank statement in support of her



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claim to the title of the impugned property along with her objection. The objector has further submitted that she is in possession of the impugned property and after obtaining requisite approvals from the Kariapatti Panchayat Union on 31.12.2021, she has even constructed three structures on the impugned property.

14. It is submitted that Mrs. Mahalakshmi had acquired the impugned property vide registered Sale Deed No. 2401/2010 dated 07.06.2010 from one Mr. Nallathambi for a total sale consideration of Rs. 28,260/-. Thereafter, revenue records were also updated, reflecting the name of Mrs. Mahalakshmi in Patta No. 648 at the relevant time.
15. The objector states that in 2001, Mr. Nallathambi had borrowed Rs. 10,000/- by mortgaging the impugned property with Chatram Puliangulam Primary Agricultural Co-operative Bank via registered Mortgage Deed No. 1540/2001 dated 25.07.2001. The said mortgage was subsequently discharged only in the year 2010, pursuant to a government waiver of the outstanding loan and accrued interest and in support of the same, the Objector has furnished a mortgage receipt bearing Document No. 2150/2010 along with the objection petition. Thereafter, vide registered sale deed dated 07.06.2010 Mr. Nallathambi sold the impugned property to Mrs. Mahalakshmi as mentioned in Paragraph no. 14 above.
16. With respect to the attachment of the impugned property based on the documents seized from possession of PACL Ltd. in MR No. 15731-16, it is stated that in 2005, Mr. Umashankar Bera purportedly purchased the impugned property along with other properties (at Survey Nos. 42/1A, 66/2B, 172/3, 174/3, 189/24, 64/2, 62/1) from certain vendors viz. (i) Mr. Kalyanasundaram, (ii) Mr. Muthukamatchi, (iii) Mr. Seeni, (iv) Ms. Lakshmi, (v) Mr. Adhan and (vi) Mr. Malaisamy via Registered Sale Deed No.



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1667/2005. It is noted that in the said Sale Deed, there is no mention of Mr. Nallathambi as a vendor who was the actual owner of the impugned property as per the EC records till 09.06.2010. Furthermore, it is submitted that the Sale Deed No. 1667 /2005 was subsequently rectified by Mr. Umashankar Bera through the execution and registration of a Partial Cancellation Deed No. 3647/2009. The said cancellation deed explicitly records that Survey No. 189/25 was erroneously included in the aforesaid sale deed and that one of the purported vendor i.e. Mrs. Lakshmi did not possess any right, title, or interest in respect of the land comprised in Survey No. 189/25 and thus, partially cancelled the sale deed no. 1667/2005 to delete the impugned property. The Objector states that she is the *bonafide* owner of the impugned property and is in possession of the same.

17. In view of the same, the Objector has filed the present objection seeking removal of the impugned property from the list of properties attached by the PACL Committee and issuance of No Objection Certificate (NoC).

18. The Objector was granted an opportunity of hearing on 25.03.2025. On the said date Mr. Amar Deep Bhupathy, husband of the Objector appeared on behalf of the Objector virtually (via Webex) and reiterated the submissions made in the objection petition. Further, while referring to the abovementioned sale deed No. 1667/2005, it was submitted that the same has been executed by certain entities not having title to the impugned property. Also, it was submitted that, considering that the said sale deed was cancelled vide document No. 3647/2009 dated 08.12.2009, the vendor in the Registered Sale Deed No. 1667/2005 dated 11.08.2005 never had a title to the impugned property and therefore, in the view of the said cancellation, the said sale deed cannot be enforced for claiming title on the impugned property. During the hearing, reply filed by PACL Ltd. to the notice issued by Justice (Retd.) R.S. Virk was referred by Mr. Amar Deep



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Bhupathy (*husband of the Objector*) and therefore, it was advised that the same be forwarded. Accordingly, vide email dated 25.03.2025 the reply filed by PACL Ltd. was forwarded on behalf of the Objector and has been taken on record.

19. In order to decide the objection, the documents seized under MR No. 15731-16 were perused. Under the said MR No. three documents are seized. One document is an Agreement to Sell (ATS) No. 2507 dated 21.04.2004. It is observed that the said agreement is an unregistered document entered into between Mr. Kalyanasundaram, Mr. Muthukamatchi, Mr. Seeni, Ms. Lakshmi, Mr. Adhan, and Mr. Malaisamy, as sellers and M/s PACL India Limited, as a purchaser company, with respect to the land admeasuring 16.43 acres corresponding to survey Nos. 42/1A, 66/2B, 172/3, 174/3, 189/24, 64/2, 62/1 and impugned property i.e. at Survey No. 189/25 situated at Pappnam Village, Kariyapatti Taluk, Virudhunagar District. Upon further perusal of the recitals of the said ATS, it is noted that the said agreement was entered into for a total sale consideration of Rs. 1,18,685/- and as a token Rs. 30,000/- was paid by the purchaser company i.e. PACL India Ltd., by cash, to the sellers. The balance consideration of Rs. 88,685/- was to be paid to the sellers by the purchaser company within one year from the date of execution of the said agreement. It is noted that at the end of the said document, a receipt is appended stating receipt of Rs. 88,685/- by way of cash from the purchaser company and was executed on 30.06.2004 at Pappanam Tamil Nadu. However, the said receipt is without any signatures, either of vendors or any duly authorised representative acting on their behalf.

20. With respect to claimed acquisition of title of the impugned property through unregistered ATS dated 21.04.2004, reference is 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.”

21. 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 and therefore, cannot be considered.

22. Also, in regard to the ATS executed, it is noted that as per Section 54 of Transfer of Property Act, 1882 (TPA), a contract for the sale of immoveable 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. Furthermore, 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 ATS concerned is not registered. Therefore, Section 53A of TPA is not attracted *qua* the said ATS. Moreover, the Objector has stated that she is in possession of the impugned property. Therefore, there is no question of PACL India Ltd./ PACL Ltd. or its agent/employee being in possession of said land which can be protected under Section 53A of TPA.



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23. Another document seized under MR No. 15731-16 is an unregistered General Power of Attorney (GPA) bearing No. 2364 dated 22.07.2005, executed by one Mr. Kalyansundaram in favour of Mr. I. Ramakrishnan. Upon further perusal of the said GPA, it is noted that the authority conferred therein pertains exclusively to land comprised in Patta No. 398. Considering that the impugned property in the present petition finds mention in Patta No. 1011 (earlier Patta No.640), the said document does not appear to be in relation to the impugned property. In view of the same, the said GPA being irrelevant, does not warrant any further examination.

24. Another document which is seized under MR No. 15731-16 is a registered sale deed no. 1667/2005 dated 11.08.2005 entered into by Mr. Kalyanasundaram, Mr. Muthukamatchi, Mr. Seeni, Ms. Lakshmi, Mr. Adhan and Mr. Malaisamy in favour of one Mr. Umashankar Bera S/o Mr. Anil Kumar Bera residing at 27, Kesharda East Sighbum District Jharkhand through power agent Mr. I. Ramakrishnan with respect to the land admeasuring 16.43 acres corresponding to survey Nos. 42/1A, 66/2B, 172/3, 174/3, 189/24, 64/2, 62/1 and the impugned property in the present objection i.e. survey no. 189/25 situated at Pappnam Village, Kariapatti Taluk, Virudhunagar District for a total sale consideration of Rs. 1,08,880/-. It is noted that the said sale deed bearing no. 1667/2005 is registered at SRO, Kariapatti.

25. In order to ascertain the title of the impugned property the EC records, Patta and other documents available before me were perused. Upon perusal of EC records for the impugned property and registered Mortgage Deed No. 1540/2001 dated 25.07.2001 submitted by the objector, it is observed that the impugned property had been mortgaged by Mr. Nallathambi with Chatram Puliangulam Primary Agricultural Co-operative Bank in the year 2001. As per the entries in the EC, the said mortgage was



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formally discharged only in the year 2010 pursuant to a Government waiver of the outstanding loan and accrued interest. Further, it is also seen from the records that the title of the said impugned property was with Mr. Nallathambi in 2001 i.e. in the year when the mortgage was created with Chatram Puliangulam Primary Agricultural Co-operative Bank. Considering that the purported Sale Deed No. 1667/2005 dated 31.03.2005 was executed by certain vendors whose names do not find any mention in any of the title documents and the same being executed prior to the lawful discharge of the mortgage created in 2001 by Nallathambi, the same raises serious suspicion on the genuineness and authenticity of the said transaction.

26. However, considering that a sale deed was executed between the said parties and that the same was registered, the Objector, in support of her claim, has submitted a registered Deed of Cancellation No. 3647/2009 executed on 08.12.2009 between Mr. Kalyanasundaram, Mr. Muthukamatchi, Mr. Seeni, Ms. Lakshmi, Mr. Adhan and Mr. Malaisamy represented by power agent Mr. Ramakrishnan and Mr. Umashankar Bera who is represented by his power agent Mr. Ththagata Lahiri to partially cancel the registered sale deed No. 1667/2005 Book-1 dated 11.08.2005. Upon perusal of the said cancellation deed, it is noted that the said document explicitly states that some mistakes have crept into the sale deed no. 1667/2005 and it is necessary to execute and register a partial cancellation of the said sale deed and that the vendors did not have lawful right, title or interest in the impugned property i.e. 189/25. Relevant paragraphs of the cancellation deed are reproduced as under:

“WHEREAS it was noticed that an extent of Ac. 1.94 cents comprised in S. No. 189/25 where found to have been wrongly included in the above said Sale Deed inadvertently and due to clerical error. It was also noticed that the party of the First Part, the vendor in SI.No.4 had no right, title and interest in the punja land to an extent of Ac.1.94Cts. comprising S. No:189/25.



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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 objection filed by Mrs. Rajalakshmi Amar Deep
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WHEREAS it has become necessary to cancel the S. No. 189/25 in the above said Sale Deed. The Parties of the First Part and Second Part have agreed to execute and register this Deed of Cancellation with respect to S. No. 189/25.

*NOW THIS DEED OF CANCELLATION IS WITNESSETH AS FOLLOWS:-
As agreed between the parties of the First Part and Second Part Punja land to an extent of Ac.1.94Cts comprising in S.No: 189/25 is hereby cancelled from the Schedule of Property as found in the Sale deed registered as Doc.No. 1667/2005, Book-1, dated 11.08.2005, in the Sub-Registrar Kariyapatti
..... ”*

27. Thus, it is the case of the Objector that even though a sale deed was executed by certain vendors, who did not have any title to the impugned property, by executing a cancellation deed, the sale deed bearing Doc. No. 1667/2005 was cancelled partially and the impugned property was deleted from the said document on the ground that the vendors did not have any lawful right, interest or title in the impugned property. Notwithstanding the same, it is noteworthy to mention that none of the title documents before me i.e. the EC for the period from 01.01.1975 to 30.01.2025 and the patta record show any entry vide which Mr. Nallathambi had transferred the title in the impugned property to the vendors mentioned in the sale deed no. 1667/2005 i.e. Mr. Kalyanasundaram, Mr. Muthukamatchi, Mr. Seeni, Ms. Lakshmi, Mr. Adhan and Mr. Malaisamy prior to the execution of the sale deed bearing Doc. No. 1667/2005 Book – 1 in favour of Mr. Umashankar Bera. Here it is pertinent to state that in cases where the party, without any title over the property, executes a deed of conveyance by sale or gift in favour of a third party, no title will transfer by the said registered instrument in view of principles of *Nemo Dat Quod Non Habet* which means no one gives what they do not have. In such a case, there may not even be any requirement of cancellation of a registered deed of conveyance executed by a stranger having no title, in favour of a third party.



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SEBI/PACL/OBJ/NS/00127/2024*

28. Thus, as has been established in para nos. 26 and 27 above with respect to the impugned property i.e. agricultural dry land measuring 0.78.5 Hectares/1.94 Acres, corresponding to Survey No. 189/25 situated in Pappanam Village, Kariapatti Taluk, Virudhunagar Dist, Tamil Nadu, considering that the vendors in the sale deed no. 1667/2005 dated 11.08.2005 executed in favour of PACL related entity i.e. Mr. Umashankar Bera did not hold any title in the impugned property, the buyer i.e. Mr. Umashankar Bera acquired no title to the impugned property by execution of an instrument which is *void ab initio*.

29. It is noted that Mr. Nallathambi was having the ownership rights and the title and possession of the impugned property by way of inheritance and he had executed a registered sale deed No. 2401/2010 dated 07.06.2010 in favour of Ms. Mahalakshmi for a consideration of Rs. 28,260/- thereby transferring the ownership, title and interest in the impugned property to Ms. Mahalakshmi. Prior to the said transaction, mortgage was created with Chatram Puliangulam Primary Agricultural Cooperative Bank in the year 2001 by Mr. Nallathambi which was discharged only in the year 2010, pursuant to a government waiver of the outstanding loan and accrued interest and in support of the same the Objector has produced a mortgage receipt bearing Document No. 2150/2010 issued by Mr. R. Balakrishnan, the then Secretary of Chatram Puliangulam Primary Agricultural Cooperative Bank. The said sale deed executed by Mr. Nallathambi with Ms. Mahalakshmi is a registered document and the entry for the said sale appears in the EC records at entry No. 5. Therefore, the said facts clearly demonstrate that the land owned by Mr. Nallathambi could not have been sold to Mr. Umashankar Bera before 2010.



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30. From the foregoing, it is clear that the title to the impugned property being sold by the vendors in the sale deed 1667/2005 dated 11.08.2005 is not clear in the light of the mortgage created on the said property by Mr. Nallathambi during the relevant time and non-availability of any evidence to show transfer of impugned property in the names of the vendors in the said sale deed by Mr. Nallathambi. Further, even though the said sale of the impugned property vide sale deed no. 1667/2005 dated 11.08.2005 is taken to be valid, the impugned property claimed to have been owned and possessed by the Objector stands removed from the said Sale deed bearing no. 1667/2005 dated 11.08.2005 (which is the document seized under the MR No. 15731-16) by execution of the cancellation deed No. 3647/2009 dated 08.12.2009 registered by the S.R.O. Kariapatti in Book-1 partially rectifying the said sale deed, mention of which is also appearing in the EC records. Thus, considering that the impugned property does not form part of the property under MR. No. 15731-16, the objection raised by the Objector is liable to be allowed.

ORDER:

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

Place: Mumbai

Date: May 30, 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.) R.M. Lodha Committee
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