

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 on the objection filed by Mr. Ramasubbu & Mr. Rajendran
SEBI/PACL/OBJ/NS/00137/2024

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/00137/2024
Name of the Objector(s)	(1) Mr. Ramasubbu (2) Mr. Rajendran
MR No.	13440/18

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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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.

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

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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.

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.



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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:

“.....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 Mr. Ramasubbu residing at D.No. 2-19A, N. Subbiayapuram Village, Karuppur Panchayat, Ettaiyapuram Taluk, Tuticorin District, Tamil Nadu and Mr. Rajendran residing at D. No. 1A, Kumarappan Village, Kazhukumalai Panchayat, Kovilpatti Taluk, Tuticorin District, Tamil Nadu (hereinafter referred to as the “Objectors”), both being sons of Late Subba Naicker, through Mr. M. Veeraragavan, Advocate (hereinafter referred to as “Authorised Representative” or “AR”) objecting the attachment of property, i.e. agricultural lands having Survey No. 48/1B and Survey No. 117/2 (subsequently sub-divided as Survey Nos. 48/1B1, 48/1B2, 117/2A, 117/2B and 117/2C), admeasuring a total of 5 Acres 14 Cents situated at Karuppur Village,



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Pudur Panchayat Union, Karuppur Minor Panchayat, Ettayapuram Taluk, Tuticorin District, Tamil Nadu (hereinafter referred as the “impugned properties”) due to attachment of property covered in MR No. 13440/18, which stands attached by the Committee.

13. The Objectors in their objection petition have submitted that the impugned properties are ancestral in nature, originally belonging to their father Mr. Subba Naicker s/o Mr. Ramasamy Naicker. During his lifetime, Mr. Subba Naicker was in possession of the said impugned properties and cultivated the agricultural lands which were covered in Patta 253. Mr. Subba Naicker and his wife Mrs. Chellammal passed away on 10.09.1985 and 21.11.1992, respectively, leaving behind their four sons, including the Objectors, namely Mr. Kandasamy, Mr. Veluchamy, Mr. Rajendran and Mr. Ramasubbu and two daughters namely, Ms. Seethalakshmi and Rajammal. After death of their father Mr. Subba Naicker, the Objectors along with other legal heirs constituted a Joint Hindu Family and collectively enjoyed all the properties belonging to their deceased father, including the impugned properties. Thereafter, it is stated that vide a registered partition deed dated 16.05.2012 bearing document no. 2167 of 2012, the Objectors were allotted the impugned properties. After the said partition, the Objectors were in possession and enjoyment of their respective share of the impugned properties and accordingly, paid the kist to the Government and cultivated the lands which are reflected in the cultivation account of the Village Karuppur, Taluk Ettayapuram, Tuticorin District. While issuing the Patta, Survey No. 48/1B and Survey No. 117/2 were sub-divided as Survey Nos. 48/1B1, 48/1B2, 117/2A, 117/2B and 117/2C as per the ratio set-out in the partition deed dated 16.05.2012. Furthermore, it is submitted that the Encumbrance Certificate (EC) for the period 01.01.1975 to 10.08.2023

[Signature]

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shows no encumbrance except the partition deed dated 16.05.2012 and the present attachment of the impugned properties by the Committee dated 31.07.2022.

14. The Objectors submit that in year 2004 i.e., after the death of their father Mr. Subba Naicker s/o Mr. Ramasamy Naicker, a General Power of Attorney (GPA) dated 18.10.2004 bearing document no. 386 of 2004 registered in book 4, volume 37 at pages 125 to 127 of Ettayapuram Sub-Registrar Office was executed using a forged thumb impression, in favor of Mr. Gurjant Singh s/o Mr. Sohan Singh, resident of Ropar District, Punjab. Mr. Gurjant Singh without verifying the living status of the principal and by exploiting the similarity of names in the village, deliberately indulged in the execution of the said forged GPA, which is illegal and invalid under the law. The said act attracted offence of forgery and impersonation against the person who impersonated the deceased Mr. Subba Naicker i.e. father of the Objectors and Mr. Gurjant Singh. Subsequently, upon realizing the legal consequences, the said GPA dated 18.10.2004 was cancelled on 09.11.2004 bearing document no. 431 of 2004, by once again affixing thumb impression of the person impersonating the deceased Mr. Subba Naicker. It is the case of the Objectors that both, the GPA dated 18.10.2004 and deed of cancellation of GPA dated 09.11.2004, were vitiated by fraud, forgery and impersonation. The Objectors submit that as the forged GPA dated 18.10.2004 was subsequently cancelled that too only within a period of one month of its execution i.e. on 09.11.2004, no criminal complaint/s were lodged by the Objectors with respect to forgery and impersonation of their deceased father. The Objectors submits that PACL Ltd. or its associates never had any title or ownership in the impugned properties and cannot maintain any rights on the impugned properties based on the forged documents. The Objectors, therefore, have filed the said objection seeking release of the said impugned properties from attachment.



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15. The Objectors were provided an opportunity of hearing on 17.03.2025. On the said date, the AR appeared on behalf of the Objectors and reiterated the submissions made in the objection petition. The AR, while drawing reference to GPA dated 18.10.2004, specifically submitted that the said GPA is invalid and should not be taken into consideration as the executor i.e., father of the Objectors viz. Mr. Subba Naicker had passed away on 10.09.1985 and that the GPA was executed on 18.10.2004 i.e., after the death of the executant. It was also stated that the said GPA was subsequently cancelled, a month later, i.e. on 09.11.2004. Additionally, upon specific inquiry, the ARs also confirmed that the Objection Petition has been filed for release of properties at Survey Nos. 48/1B and 117/2 (subsequently sub-divided as Survey Nos. 48/1B1, 48/1B2, 117/2A, 117/2B and 117/2C) only.
16. The objection along with the documents produced in support of the claim made therein have been perused. The legal heirship certificate dated 29.12.2011 certifies the Objectors, among others, as the legal heirs of Mr. Subba Naicker and his wife Mrs. Chellammal, who passed away on 10.09.1985 and 21.11.1992, respectively. On perusal of the partition deed dated 16.05.2012 bearing document no. 2167 of 2012, it is observed that the partition deed was executed between the Objectors and four other legal heirs of Mr. Subba Naicker for certain properties, including the impugned properties at Survey Nos. 48/1B and 117/2. Both the Objectors, have been allotted land admeasuring 1 Acre 57 Cents each in Survey No. 48/1B and 1 Acres each in Survey No. 117/2. Furthermore, the EC records of S.R.O Ettayapuram bearing certificate no. EC/Online/98969166/2023 for property details of the impugned properties for 49 years i.e. from 01.01.1975 to 10.08.2023, shows only



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two entries i.e., partition deed dated 16.05.2012 and the present attachment by the Committee dated 31.07.2022.

17. In order to further examine the present objection, the documents seized in the MR No. from the possession of PACL Ltd. and thereafter, attached by the Committee were perused and upon perusal it is observed that a GPA dated 18.10.2004 (*same GPA as mentioned in the objection*) was executed by Mr. R. Subba Naicker s/o Ramasamy Naicker (*predecessor in the title of the impugned properties*) in favour of Mr. Gurjant Singh s/o Mr. Sohan Singh for certain properties, including the impugned properties at Survey no. 48/1B and 117/2.
18. As mentioned in previous paragraphs, it is submitted by the Objectors that Mr. Subbah Naicker, who was the predecessor in the title of the impugned properties in Survey Nos. 48/1B and 117/2, had died on 10.09.1985 i.e. long before the date of execution of GPA dated 18.10.2004; the same being seized by the CBI. In support of the said submission, the Objectors have produced the death certificate issued by the Department of Registration, Government of Tamil Nadu issued on 28.10.2021 mentioning the name of the deceased to be Mr. Subba Naicker and the date of death as 10.09.1985. Further, the legal heirship certificate issued by Government of Tamil Nadu mentioning the name of the deceased as Mr. Subba Naicker and the date of death of the said entity to be 10.09.1985 is also produced in support of the submission that on the date of execution of the purported GPA dated 18.10.2004, Mr. Subba Naicker i.e. the father of the Objectors was not alive. It is worth mentioning here that in terms of Section 2(h) and Section 10 of the Indian Contract Act, 1872, a valid contract must be between parties who are competent to contract and one which can be enforceable by law. Considering that the purported GPA, being a contract between the Donor and the Donee, has been executed on 18.10.2004 between one



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Mr. R. Subbha Naicker s/o Ramasamy Naicker (Donor) and Mr. Gurjant Singh s/o Mr. Sohan Singh (Donee), the same raises serious suspicion on the genuineness of the said document and thus, the enforceability of such a contract is questionable.

19. Further, the Objectors have also brought on record a document dated 09.11.2004 bearing no. 431 of 2004, which is a cancellation deed cancelling the GPA dated 18.10.2004 bearing no. 386 of 2004. However, upon perusal of the said cancellation deed dated 09.11.2004, it is observed that the same mentions the name of one Mr. Kurchand Singh as the power agent in whose name the GPA was executed by Mr. Subba Naicker s/o Mr. Ramasamy Naicker and that due to loss of trust, the GPA bearing no. 386 of 2004 dated 18.10.2004 is hereby cancelled. Thus, it is observed that although the GPA number mentioned in the cancellation deed is 386 of 2004, considering that the name of the power agent mentioned in the GPA dated 18.10.2004 and the name of the power agent mentioned in the cancellation deed, vide which the said GPA has been claimed to have been cancelled, being different, the cancellation deed produced in respect to the impugned properties cannot be considered as a valid cancellation of the GPA executed on 18.10.2004. Notwithstanding the same, from the documents produced by the Objectors in support of the submission that their father Mr. Subba Naicker was not alive and died much earlier to the execution of the GPA dated 18.10.2004, the purported GPA seized by CBI from the possession of PACL Ltd. does not stand the test of law.

20. Assuming without admitting that the said GPA was validly executed in respect of the impugned properties, in order to establish whether the general power executed in the year 2004 by Mr. R. Subba Naicker in favour of Mr. Gurjant Singh (POA holder) transferred any title to the power agent, reliance is placed on the judgement passed by the Hon'ble



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Supreme Court in the case of *Suraj Lamp and Industries Pvt. Ltd Vs. State of Haryana & Anr (2012) 1 SCC 656*, which discouraged the practice of transferring an immovable property by way of executing a GPA / Agreement to sell / Will and inter alia, held as under:

"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. Thus, it is clear that mere execution of GPA does not convey any title and cannot be said to be a valid mode of transferring any immovable property. In the present case, even though a GPA have been executed in the name of the predecessor to the title of the impugned properties in favor of the POA holder, who is a person associated with PACL Ltd., the said GPA did not create any ownership right or transfer the title in the impugned properties to the POA holder.
22. In view of the foregoing, considering that the GPA dated 18.10.2004 was a questionable contract in the light of the death of the executant of the said document and mere execution of GPA did not convey any title to the POA holder but only authorized the agent to act on behalf of the executant and the title in the impugned property did not get transferred to the

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Order on the objection filed by Mr. Ramasubbu & Mr. Rajendran
SEBI/PACL/OBJ/NS/00137/2024

POA holder, the claim of the objectors in the objection in respect of the impugned properties i.e. properties situated in Survey No. 48/1B and Survey No. 117/2 is valid.

ORDER:

23. Given the above facts, the objection raised by the Objectors in the impugned properties at Survey No. 48/1B and Survey No. 117/2 is liable to be allowed and is accordingly, allowed.

Place: Mumbai
Date: May 08, 2025


Ms. RESHMA GOEL
RECOVERY OFFICER



रेसमा 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
(पीएसीएल लि. के मामले से संबंधित, मुंबई, / In the Matter of PACL Ltd. Mumbai)

दशम पाठ्यक्रम - अक्षांश

अक्षांश रेखाएँ पृथ्वी की सतह पर एक वृत्त के रूप में चिह्नित की जाती हैं, जो ध्रुवों से शुरू होती हैं और इक्वेटोर तक फैली होती हैं। अक्षांश रेखाएँ पृथ्वी की सतह पर एक वृत्त के रूप में चिह्नित की जाती हैं, जो ध्रुवों से शुरू होती हैं और इक्वेटोर तक फैली होती हैं।