

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 Ms. Jagdishwari Negi
SEBI/PACL/OBJ/AR/00012/2024

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

File No.	SEBI/PACL/OBJ/AR/00012/2024
Name of the Objector(s)	Ms. Jagdishwari Negi
MR No.	12116-16

ORDER

Background:

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") on 22.08.2014 passed an order against the PACL Ltd., its promoters and directors, *inter alia* holding the schemes run by PACL Ltd. as CIS and directing them to refund the amounts collected from the investors within three months from the date of the order. By 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 4 of its directors by filing appeals before Hon'ble SAT. The said appeals were dismissed by 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 Hon'ble SAT, PACL Ltd. and its directors filed appeals before Hon'ble Supreme Court of India.



[Handwritten Signature]

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3. Hon'ble Supreme Court did not grant any stay on the aforesaid impugned order dated 12.08.2015 of Hon'ble SAT, however, PACL Ltd. and its promoters/directors did not refund the money to its investors. Accordingly, SEBI initiated recovery proceedings under Section 28A of 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 hearing on the aforesaid civil appeals filed by the PACL Ltd. and its directors (i.e. Civil Appeal No. 13301 of 2015 – Subrata Bhattacharya Vs. SEBI and other connected matters), Hon'ble Supreme 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, Hon'ble Supreme Court did not grant any stay on the orders passed by SEBI and the Hon'ble SAT. Therefore, direction for refund and direction regarding restraint on the PACL Ltd. and its promoters and directors from disposing, alienating or selling the assets of the PACL Ltd., as given in the order continue 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, 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 document 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. Hon'ble Supreme Court vide its order dated 15.11.2017 passed in C. A. No. 13301/2015 and connected matters directed that all the grievances/objections pertaining to 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. & Ors., the Recovery Officer issued a notice of attachment in respect 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, 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



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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 aforesaid order dated 08.08.2016 passed by 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 Officers attached to the Committee.

Present Objection:

12. Present objection has been filed by Ms. Jagdeshwari Negi W/o Dr. P. S. Negi R/o House No. T-21, Shivalik Nagar, BHEL, Ranipur Haridwar, Uttrakhand - 249403 (hereinafter referred to as “**the Objector**”) with respect to land admeasuring 0.3850 Hectare in Khasra Nos. 408 Kha, 317 Ka and 419 Da, in Village – Khusalpur, Tehsil – Vikas Nagar, District - Dehradun, Uttrakhand (hereinafter referred to as the “**impugned land**”), being covered in MR No. 12116-16.

13. The Objector was given an opportunity of personal hearing on 11.03.2025. However, nobody appeared for hearing on the date so fixed. Upon contacting over phone with the husband of the objector, it was informed that due to sudden death in the close relation of the advocate appearing for the Objector, the hearing may please be adjourned. Accordingly, hearing in the matter was adjourned to 20.03.2025. Hearing on 20.03.2025 was attended through virtual mode, by the Authorised Representative (AR) of the Objector, the Objector herself and her husband. During the hearing, the AR submitted that the impugned land was purchased by the Objectors from Anurag Sharma S/o J. P. Sharma R/o B-116, Tons Colony, Dakpathaar, Tehsil – Vikas Nagar, District Dehradun, Uttrakhand and Ashish Rawat S/o Balbir Singh Rawat R/o Ajabpur, Dehradun, Uttrakhand through a registered sale deed dated 03.03.2016 for a



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consideration of Rs. 20,00,000/- . AR also submitted there was nothing to show that the land parcel belonged to PACL Ltd. On being asked about the mode of payment of the consideration amount, the AR submitted that the consideration was paid through two cheques issued from the account of the Objector held with Uttranchal Gramin Bank. AR was directed to file the statement of the said bank account of the Objector, within a period of 7days. Vide email dated 25.03.2025, husband of the Objector forwarded copies of the two cheques which were issued by the Objector towards payment of consideration. In the said email, time of seven more days was sought to file the statement of the bank account of the Objector held with Uttranchal Gramin Bank. Accordingly, Objector was given time till 01.04.2025 to provide the said information. Vide letter dated 10.04.2025 (received on 17.04.2025) husband of the Objector has forwarded the copy of the statement of the bank account of the Objector held with Uttranchal Gramin Bank, showing payment of consideration of Rs. 20,00,000/- through the said account of the Objector.

14. I have perused the document seized under MR No. 12116-16 which is a copy of the sale deed dated 26.10.2006 whereby Rajpal S/o Man Singh R/o Jassowala, Tehsil – Vikasnagar, District – Dehradun sold land admeasuring 0.385 Hectare [In Khata no. 233, Khasra nos. 408Kha (0.2280 Hectare), 419Da (0.0150 Hectare) - .090 Hectare out of total 0.243 Hectare and in Khata no. 286 in Khasra no. 317Ka (0.295 Hectare)], to (i) Zahid S/o Jeer Mohammed and (ii) Raisuddin S/o Shamshudeen, for a consideration of Rs. 4,65,000/-.

15. It is noted from the chain of documents submitted by the Objector that aforesaid Zahid sold his land to Anurag Sharma vide registered sale deed dated 18.11.2015 and Raisuddin sold his land to Aashish Rawat vide registered sale deed dated 16.07.2015.





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Thereafter, said Anurag Sharma and Aashish Rawat sold land through registered sale deed dated 03.03.2016 registered with SRO II, Vikas Nagar, Book No. I, Zild 1700, pp 383-420 at S.no. 1703, to the Objector.

16. As the documents pertaining to title of Zahid and Raisuddin to the impugned land has been seized by the CBI from the possession of PACL Ltd., therefore, there is presumption that the impugned land belongs to PACL Ltd. and said Zahid and Raisuddin were holding the impugned land on behalf of PACL Ltd. or in other words, Zahid and Raisuddin were the ostensible owner of the impugned land whereas the real or beneficial owner of the impugned land was PACL Ltd. Here, it is worth to refer to Section 41 of Transfer of Property Act, 1882 which provides as under:

“41. **Transfer by ostensible owner.** —Where, with the consent, express or implied, of the persons interested in immovable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be violable on the ground that the transferor was not authorised to make it:

Provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith.”

17. Under Section 41, a transfer made by the ostensible owner, in order to attract Section 41, has to satisfy the tests of “reasonable care” and “good faith” of the transferee, required under the proviso to Section 41. In terms of said proviso, transferee should have acted in good faith and taken reasonable care to ascertain that the transferor had authority to make the transfer, in order to take benefit of Section 41. To demonstrate that the Objectors had acted in good faith by taking reasonable care to ascertain authority of the transferors to make the transfers, the Objectors have submitted that they had verified the land records which showed vendors/transferees as the owners of the property. Verifying the land records is one of the measure to ascertain the title of the




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transferor. In case of an ostensible owner, it is but obvious that the property would reflect in the name of the ostensible owner in land records. However, if the circumstances of the case demands, then the transferee is required to show that he made further inquiries to demonstrate reasonable care and good faith required under the proviso to Section 41. Here, both the vendors i.e. Zahir and Raisuddin who sold the impugned land to the Objectors executed the sale deed in their individual name. Rightly so because, said Zahir and Raisuddin purchased the said land from Rajpal in their individual name. Neither in the sale deed dated 26.10.2006 by which said Zahir and Raisuddin purchased land from Rajpal, nor the sale deed by which said Zahir and Raisuddin sold the land to the Objector, anywhere mentions that said Zahir and Raisuddin, were holding the impugned land on behalf of PACL Ltd. or PACL Ltd. had provided the money for purchase of the said land. Land records also showed said Zahir and Raisuddin as the owners of the impugned in their individual name. Therefore, there was nothing in the circumstances so as to call for any further due-diligence or care from the Objector while purchasing the impugned land. As mentioned above, Objector has also paid the consideration, through banking channels, for purchase of the impugned land.

18. Given all the above, the objection by the Objectors is liable to be allowed and is accordingly allowed.

Place: Mumbai

Date: April 25, 2025



ANUBHAV ROY

RECOVERY OFFICER

**For and on behalf of Justice (Retd.) R.M. Lodha
Committee (in the matter of PACL Ltd.)**



अनुभव रॉय / ANUBHAV ROY

उप महाप्रबन्धक एवं वसूली अधिकारी

Deputy General Manager & Recovery Officer

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