

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 Shri K. Krishnappa & Ors.
SEBI/PACL/OBJ/AR/00148/2024

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/00148/2024
Name of the Objector(s)	1. Shri K. Krishnappa 2. Shri K. Dasappa 3. Smt. Aluvelamma @ Alumelamma
MR No.	24701/2016

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.



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

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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. 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



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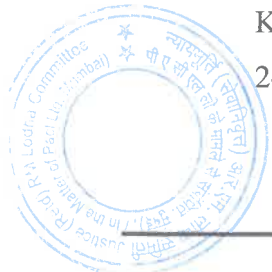
10. Vide order dated 08.08.2024, passed in Civil Appeal No. 13301 of 2015 – Subrata Bhattacharya Vs. SEBI and other connected matters, Hon'ble Supreme Court has directed as under:

“.....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 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 Shri K. Krishnappa S/o Late Kenchappa R/o No. 4764, 13th B Main, 11th Cross, Indiranagar, HAL II Stage, Banglore – 560008, Karnatka, Shri K. Dasappa S/o Late Kenchappa, R/o No. 515/1, TCH College Road, Nagavara, Bangalore – 560045, Karnatka and Smt. Aluvelamma alias Alumelamma W/o Late Venkatesh, Chikkabanahalli Village, Kannamangala, Bengaluru – 560067, Karnatka (hereinafter referred to as “**the Objectors**”) in respect of the land parcel to the extent of 1 Acre 07 Guntas in Survey No. 35 and to the extent of 1 Acre 06 Guntas in Survey No. 36/2 in Village – Doddabanahalli, Bidarahalli Hobli, Bangalore East Taluk, Bangalore, Karnatka (hereinafter referred to as the “**impugned land**”), covered in MR Nos. 24701/16.



Shri K. Krishnappa

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13. A hearing before undersigned was granted to the Objectors on 02.04.2025 when the Objectors through their authorised representatives (ARs) attended the hearing. AR for the Objectors made submissions on the lines of objection petition and submitted that though the MR No. 24701-16 covers many survey numbers, however, their objection is confined only two survey numbers viz. 35 and 36/1. It was also submitted that Venkatesh, who is the donor in General Power of attorney dated 23.11.2010 (hereinafter referred to as "GPA") executed by him in favour of M/s. NSB Real Estates Pvt. Ltd., could not have executed the said GPA, in respect of these survey numbers, one of which was granted to Kenchappa father of Venkatesh and other which was granted to Venkatesh in his name, but for all of the family members. In this regard, reliance was placed on the decision of the Hon'ble Supreme Court reported in (2007) 14 SCC 63, for the proposition that when a grant is made under Karnataka Land Reforms Act, 1961, it goes to whole family. Further, the judgment reported in (2012) 1 SCC 656 was relied upon for the proposition that GPA does not convey any title in the property. It was also submitted that Venkatesh died in the year 2014 and hence, by virtue of provisions of Section 201 of the Indian Contract Act, 1872 (hereinafter referred to as "ICA"), GPA stood determined on the death of Venkatesh and by virtue of the fact that said GPA was not acted upon by the donee prior to the death of Venkatesh. It was also submitted that said GPA is not saved by Section 202 of ICA after the death of Venkatesh, as the same was not coupled with any interest.

14. The case of Objectors is that the impugned land, in so far as it relates to land admeasuring 1 Acre 06 Guntas falling in Survey no. 36/2 is concerned, was granted to Venkatesh S/o Kenchappa by the Land Tribunal, Bangalore East Taluk under the provisions of Karnataka Land Reforms Act, 1961 (hereinafter referred to as "**Karnataka**

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Act, 1961"). Thereafter, he was registered as occupant of the said land by the Tahsildar, Bangalore East Taluk by certificate dated 05.05.2007, issued in terms of Section 55(1) of the Karnataka Act, 1961. The Khata in respect of said land was also transferred to the name of Venkatesh. Venkatesh had passed away on 15.02.2014 and the land was mutated in the name of his wife, i.e. Objector no. 3. Similarly, land admeasuring 1 Acre 07 Guntas falling in Survey no. 35 is concerned, was granted to Kenchappa S/o Dasappa by the Land Tribunal, Hosakote Taluk (presently Bangalore East Taluk) under the provisions of Karnataka Act, 1961. Thereafter, he was registered as occupant of the said land by the Tahsildar, Hosakote Taluk by a certificate dated 30.07.1982 issued in terms of Section 55(1) of the Karnataka Act, 1961. Kenchappa had passed away on 01.04.1979 and his wife Gowramma also passed away on 01.05.1988. Kenchappa had three sons, i.e. Objector no. 1, Objector no. 2 and husband of Objector no. 3. It has also been submitted that a family partition has also taken place amongst the Objectors vide three registered relinquishment deeds dated 23.03.2023 whereby land in these 2 survey numbers have also been partitioned. It has been submitted that the Objectors are the absolute owners of the impugned land and PACL or any of its associates are not having any right title or interest in the same.

15. I have perused the document seized under MR No. 24701-16. One of the document which is titled as "Irrevocable General Power of Attorney" is dated 23.11.2010 and is given by Venkatesh S/o Late Kenchappa, R/o Chikkabanahalli, Bidarahalli Hobli, Bangalore East Taluk to M/s. N.S.B. Real Estates Pvt. Ltd., (NSB Group) having its registered office at J-134, Sector – 41, Near Prayag Hospital, Noida, Uttar Pradesh – 201301, in respect of land admeasuring 16 Guntas in Survey no. 35 and 1 Acre 06 Guntas in Survey no. 36/2, situated at Doddabanahalli Village, Bidarahalli Hobli, Bangalore East Taluk. In the said MR No., there are two other Irrevocable General



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Power of Attorneys (GPAs), however, those two GPAs are in respect of different survey numbers and, hence, are not relevant for the purposes of the present Objection.

16. As can be noted from the above facts, Venkatesh had given GPA to M/s. N.S.B. Real Estates Pvt. Ltd. (hereinafter referred to as "NSB"), with respect to 16 Guntas of land in Survey No. 35 and 1 Acre 6 Guntas of land in Survey No. 36/2. It has been contended by the Objectors that land parcel of 1 Acre 06 Guntas in respect of which grant was made under the Karnataka Act, 1961 in favour of Venkatesh was for the benefit of the whole family, therefore, he alone could not have given GPA in respect of whole land parcel. In support of their contention that the grant made in favour of a person under the Karnataka Act, 1961 enures to the benefit of whole family, the Objector has relied upon judgment of Hon'ble Supreme Court in *Thimmappa Rai Vs. Ramanna Rai & Ors. (2007) 14 SCC 63* wherein Hon'ble Supreme Court agreed with the findings of the trial court as confirmed by the High Court to the effect that the settlement made under the Karnataka Act, 1961 in favour of a person by grant of occupancy right enured to the benefit of all the heirs and legal representatives of such person. Therefore, I note that Objectors are right in contending that the grant made in favour of Venkatesh in respect of 1 Acre 06 Guntas of land in Survey No. 36/2 was for the benefit of whole family and he alone could not have entered into GPA with respect to whole land comprised in the said Survey No. 36/2.

17. It has been contended by the Objectors that Venkatesh died on 15.02.2014, therefore, in terms of Section 201 of ICA, the GPA stood terminated. It was also contended that the said termination of GPA was not saved by Section 202 of ICA, as the GPA was not coupled with interest. For the purpose of understanding as to when a power of attorney or agency can be said to be coupled with interest, as envisaged under Section 202 of

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ICA, reference may be made to the judgment of Hon'ble Supreme Court in *M. S. Ananthamurthy & Anr. Vs. J. Manjula ETC 2025 INSC 273*. In this case, after going through the provisions of similar power of attorney, as is involved in the present case, Hon'ble Supreme Court held that such a power of attorney is not irrevocable as it was not executed to effectuate security or to secure interest of the agent. As the GPA was not creating any interest in the favour of donee (NSB), therefore, it being revocable stood revoked/terminated on the death of donor (Venkatesh) on 15.02.2014.

18. In this regard, it is worthy to refer to the judgment of Hon'ble Supreme Court in *Suraj Lamp's Case (Supra)*, as relied upon by the Objector, wherein Hon'ble Court observed as under:

".....16. 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 recognized or valid mode of transfer of immoveable 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 recognized as deeds of title, except to the limited extent of Section 53A of the Transfer of Property 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....."

19. Regarding applicability of Section 53A of Transfer of Property Act, 1882, it is noted that said section is attracted when *inter alia* there is contract to transfer immovable property. In the present case, there is only GPA. Thus, Section 53A is not attracted on

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this count. Further, Objectors have stated that they are in possession of the impugned land. 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. Therefore, Section 53A of TPA is not attracted on this count also.

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

Place: Mumbai
Date: May 29, 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
पहाप्रबन्धक एवं वसूली अधिकारी
General Manager & Recovery Officer
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Justice (Retd) RM Lodha Committee
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