

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 R. Solaisamy
SEBI/PACL/OBJ/AR/00048/2024

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/00048/2024
Name of the Objector(s)	Shri R. Solaisamy
MR No.	27261-16, 23804-17 & 15220-18

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.



Page 1 of 11

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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 registration/mutation/sale/transfer, etc. of properties wherein PACL Ltd. and or its group or its associates have, in any manner right of interest.



Page 2 of 11

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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:



Page 3 of 11

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“.....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 R. Solaisamy S/o Ramasamy, R/o D. No. 4/72K, Kattananseval, Thayilpatti, Ramalingapuram, Virudhunagar – 626128, Tamil Nadu (hereinafter referred to as “**the Objector**”) in respect of the land admeasuring 17.16.50 Hectares having Survey nos. 19/1, 20, 24/2, 32/2, 34/2A, 34/2B, 35/1A, 35/1B, 35/1C, 35/2 & 36/1 situated in Village – P. Duraisamiapuram, Taluk – Ottapidaram, District - Thoothukudi, State – Tamil Nadu (hereinafter referred to as the “**impugned land**”), covered in MR Nos. 27261-16, 23804-17 & 15220-18.

13. The Objector was granted an opportunity of hearing before the Recovery Officer on 03.03.2025 which was attended by the Authorised Representative (AR) of the Objector. AR iterated the submissions made in the objection petition. During the hearing, AR was directed to submit statement of Bank account of the Objector, from which the payment of consideration for the impugned land parcel was made, and copy of General Power of Attorney (GPA) given by Mohit Kumar in favour of Stephen Pushparaj, who sold the impugned land parcel to G. Ponragu i.e. Vendor of the Objector. Vide email dated 03.03.2025, AR has forwarded statement of saving bank account of the Objector

Page 4 of 11



[Handwritten Signature]

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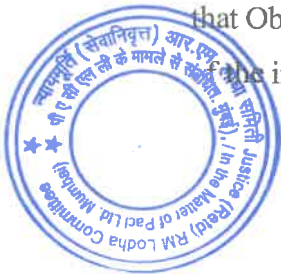
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bearing number 815210110005673 held with Bank of India, Sivakasi Branch showing payment of Rs. 5,75,000/- made to G. Ponraghu through cheque no. 058434 and a copy of the GPA no. 1673/2018 dated 11.06.2018 executed by Mohit Kumar Dayal in favour of Stephen Pushparaj.

14. The case of the Objector is that impugned land originally belonged to Kanjana Mala, Vijayalakshmi, Nehru Prakash and Kathiresan who purchased it through 19 different sale deeds in the year 1996. Thereafter, these persons through their power of attorney holder, Nagesan, transferred the impugned land to Mohit Kumar Dayal S/o Govind Swarup, R/o F-430, Gali No. 8, Ganga Vihar, Delhi – 94, represented through power agent, Lalit Agarwal, vide sale deed no. 489/2004 dated 05.07.2004. Thereafter, vide document no. 3952 of 2012 dated 25.10.2012, Mohit kumar Dayal through his PoA, Gurunathan, executed an agreement to sell (ATS) with Yash & Ram Lifestyle Developers Pvt. Ltd. (YRLDPL). Objector has averred that YRLDPL failed to execute the sale deed with in the time stipulated in the ATS, possession of land was not handed over to the YRLDPL and entire sale consideration was not paid by the YRLDPL, therefore, the ATS lapsed and period of limitation to enforce the said ATS also lapsed. Thereafter, Mohit Kumar Dayal through his PoA holder, Stephen Raju sold the impugned land in favour of G. Ponragu through sale deed no. 1858/2018 dated 05.09.2018. Thereafter, G. Ponragu sold the impugned land to the Objector vide sale deed no. 2068/2018 dated 01.10.2018. It is further submitted that PACL never has any title or ownership regarding the impugned land nor the name of PACL or its associate companies were reflected in the encumbrance certificate till date. It is also submitted that Objector is a bonafide purchaser for valuable consideration and in legal possession of the impugned land.



Page 5 of 11

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15. Document seized under MR No. 15220-18 is an unregistered ATS dated 10.03.2003 entered between Mohit Kumar Tayal S/o Govind Swarup, R/o F-430, Gali No. 8, Ganga Vihar, Delhi – 110094 and PGFL (an associate company of PACL Limited), whereby Mohit Kumar Tayal agreed to sell land admeasuring 49 Acres 96 Cents including the impugned land, for a consideration of Rs. 4,90,300/-, to PGFL. Recitals to the ATS mention that Mohit Kumar Tayal is in possession of the concerned land. Further, it is mentioned that owners of the concerned land had entered into some sale agreement/understanding with Mohit Kumar Tayal for the concerned land i.e. 49 Acres 96 Cents, and have handed over physical possession of the concerned land to Mohit Kumar Tayal. The ATS also states that PGFL paid a sum of Rs. 1,22,000/- by way of cash to Mohit Kumar Tayal which has been acknowledged by Mohit Kumar Tayal. ATS further mentions that remaining consideration of Rs. 3,68,300/- was to be paid by the PGFL to Mohit Kumar Tayal within a period of one year from the date of the execution of the ATS. It is also mentioned in the ATS that Mohit Kumar Tayal was to handover the possession of the concerned land at the time of receipt of the balance consideration. Mohit Kumar Tayal had entered into an ATS with PGFL on 10.03.2003 when he himself was not possessing any title to the lands agreed to be sold. These land parcels came to be purchased by Mohit Kumar Tayal from the erstwhile owners of these lands, i.e. Kanjana Mala, Vijayalakshmi, Nehru Prakash and Kathiresan, on 01.07.2004 through a registered sale deed. Therefore, ATS entered into by Mohit Kumar Tayal with PGFL was not a valid document. Moreover, it was mere an ATS which could not have conveyed any title in the land parcels to PGFL. Even suit for specific performance of the said ATS is barred by limitation, for the reason that remaining consideration under the ATS was to be paid by PGFL within one year of the execution of the ATS which could have given right to PGFL to seek performance of the ATS, i.e. handing over of possession of the land and execute the sale deed. Proof of payment of remaining



Page 6 of 11

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consideration is not available on record which lead to the conclusion that PGFL cannot seek specific performance without performing its part of ATS. Even assuming remaining consideration was paid well within a period of one year, then too, at the most PGFL could have brought the suit for specific performance of ATS by March, 2007 (with a period of three years, supposing PGFL made payment of the remaining consideration on the last day of the time period stipulated in the ATS), only.

16. Document seized under MR No. 23804-17 is a GPA no. 76/IV/2008 dated 11.01.2008 given by Mohit Kumar Tayal S/o Govind Swarup, R/o F-430, Gali No. 8, Ganga Vihar, Delhi – 94 in favour of Tarlochan Singh, Sukhdev Singh, Gurnam Singh, Alok Pal Singh Srinivas Sharma, Dinabandhu Dhal, Ramsingh Negi, Sundaram, Gurnathan and Sukhdev Munda, in respect of the land admeasuring 49 Acres 96 Cents including the impugned land, *inter alia*, authorising the donees to transfer the said land parcel by way of registered sale deeds, in favour of any person. Apparently, said GPA does not create any right or interest with respect to scheduled property, in favour of donees mentioned therein, but merely authorises donees therein to do certain acts with respect to scheduled property, in the name of the donor. Assuming, said GPA intended to convey right or interest in the immovable property, then it is noted that Section 17(1)(h) of the Registration Act, 1908, as applicable in State of Tamil Nadu with state amendments, makes instruments of Power of Attorney relating to immovable property other than those executed outside India, as compulsorily registrable document. 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, Chekkanoorani, District – Madurai, Tamil Nadu. Regarding the correct place of registration of a GPA which intended to convey right or interest in the immovable property like the present GPA (if it is so assumed), the reference may be



Page 7 of 11

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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.”

17. In terms of aforesaid Section 28, the correct place of registration of any GPA pertaining to immovable property situated in the State of Tamil Nadu is office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which GPA relates, is situated in the State of Tamil Nadu. In the present case, the GPA pertained to immovable properties which fell in the jurisdiction of SRO, Taluk – Ottapidaram, District –Tuticorin and not in the jurisdiction of SRO, Chekkanoorani, District – Madurai, 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.



Page 8 of 11

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18. It is noted that document seized under MR No. 27261-16 is an ATS bearing no. 3952/2012 dated 25.10.2012 whereby Mohit Kumar Tayal S/o Govind Swarup, R/o F-430, Gali No. 8, Ganga Vihar, Delhi – 94 entered into an agreement for sale of the land admeasuring 49 Acres 96 Cents including the impugned land, in favour of YRLDPL for a consideration of Rs. 4,49,640/-. The ATS also states that Vendor has received the entire sale consideration and acknowledges the receipt of same. It is worth to mention here that as mentioned in para 7 above, in an attachment order dated 07.09.2016 issued by Recovery Officer, SEBI, YRLDPL is mentioned at serial no. 618 in a list of 640 companies which have been admitted by the PACL Ltd. as its group/associate company. Thus, YRLDPL is the associate/group company of PACL Ltd. It is also a fact that PACL Ltd., PGFL and YRLDPL are group/associate companies and that ATSs made in favour of PGFL and YRLDPL, have been seized from the possession of PACL Ltd. In view of this, subsequent ATS dated 25.10.2012 signed by Mohit Kumar Tayal in favour of YRLDPL, did supersede the earlier ATS dated 10.03.2003 signed by Mohit Kumar Tayal in favour of PGFL.

19. With respect to ATS dated 25.10.2012 signed between Mohit Kumar Tayal and YRLDPL, it is noted that the vendor had received the whole consideration amount of Rs. 4,49,640/- for the sale of impugned land. The ATS provides that the sale deed was to be executed within three years from the date of execution of the ATS. It is not clear that whether any final conveyance deed i.e. Sale deed was ever signed between the parties. The ATS also provides that ATS will remain irrevocable and binding on both parties and their respective heirs and successors. In such a situation, YRLDPL could either filed a suit for specific performance of the ATS or filed a suit to recover the said money from Mohit Kumar Tayal, however, such suits would be time barred now. It is also a matter of record that said Mohit Kumar Tayal had sold this land to Ponraghu who

Page 9 of 11



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in turn has sold the impugned land to the Objector herein. Thus, third party rights have been created in the said land.

20. With regards to *inter alia* agreement to sale, Hon'ble Supreme Court in **Suraj Lamp and Industries Pvt. Ltd. Vs. State of Haryana & Anr.** reported in (2012) 1 SCC 656, 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....."

21. As far as the applicability of Section 53A of Transfer of Property Act, 1882 (TPA) to the said ATS dated 10.03.2003, is concerned, first and foremost, transferee must be in possession of the immovable property in question. In the present case, the Objector has specifically averred that he is in possession of the impugned land. Therefore, Section 53A is not attracted to the ATS made in favour of PGFL. Further, after the amendments made to Section 53A on 24.09.2001, transferee in an unregistered agreement to sell is not protected under Section 53A of TPA. The ATS dated 10.03.2003 is unregistered and hence, transferee under it (PGFL) is not protected under Section 53A of TPA.



Page 10 of 11

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

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 R. Solaisamy
SEBI/PACL/OBJ/AR/00048/2024

22. The aforesaid legal position, with respect to eligibility for filing of suit for specific performance and requirement of holding of possession by the transferee for the applicability of Section 53A of TPA, hold good for second ATS dated 25.10.2012 whereby Mohit Kumar Tayal agreed to sell land admeasuring 49 Acres 96 Cents including the impugned land, to YRLDPL. However, the said ATS is registered. Thus, as per the law laid down by the Hon'ble Supreme Court in Suraj Lamp's case (*supra*), transferee in the said ATS, i.e. YRLDPL could protect its possession under Section 53A of TPA provided it has possession of the concerned land. However, as mentioned above, in the present case, the Objector is claiming to be in possession of the impugned land.

23. Given all the above, the objection 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
न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा कमेटी
Justice (Retd) RM Lodha Committee
(पी ए सी एल लि के मामले से संबंधित. मुंबई / In the Matter of PacL Ltd. Mumbai)



Page 11 of 11

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