

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
M/s. Techno Electric & Engineering Company Limited
SEBI/PACL/OBJ/AR/00070/2024

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/00070/2024
Name of the Objector(s)	M/s. Techno Electric & Engineering Company Limited
MR No.	11936/16

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.

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

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SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400051



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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.
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

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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 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.....”



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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 Objections:

12. Present objection has been filed by M/s. Techno Electric & Engineering Company Limited, having its registered office at C-218, Ground Floor (GR-2), Sector -63, Noida, Gautam Buddha Nagar, Uttar Pradesh – 201307 and Corporate Office at 1B, Park Plaza, South Block, 71 Park Street, Kolkata - 700016 (hereinafter referred to as “**the Objector**”), in respect of the land parcel admeasuring 2.84 Acres of land out of 3.58 Acres of land comprised in SF No. 1719/(P) (As per Sub Division present SF No. 1719/1A) situated in Village - Madhavakurichi, Gram Panchayat - Madhavakurichi, Taluk – Tirunelveli, District – Tirunelveli, Tamil Nadu (hereinafter referred to as the “**impugned land**”), covered in MR No. 11936/16. In the present objection petition, the Objector is represented by Mr. Vikram Jhunjunwala, who has been authorised to represent the Objector company, vide resolution of its board of directors, dated 10.11.2023.

13. The Objector has submitted that it had purchased 253.25 acres of land in the state of Tamil Nadu to carry out its business operations relating to production of green energy under renewable energy scheme (REC). Accordingly, it installed 67 wind turbines in the said lands to generate green energy for a capacity of 111.90 MW in the state of Tamil Nadu. The said lands were purchased between 2010 and 2011 which had free, clear and unencumbered marketable title, vide registered sale deeds, admeasuring to a total extent of about 253.25 acres. The Objector has further submitted that it has paid valuable consideration which has also been recorded in the Sale Deed with its name

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duly mutated in the revenue records of the Government and the encumbrance certificate entries with the SRO, Tirunelveli, reflects the name of the Objector as the purchaser. The Objector has contended that since purchase of the land parcel in 2011, it is in continued possession of the impugned land.

14. The Objector has submitted that it had purchased the impugned land from M/s. Shubh Realty (South) Private Limited for a sale consideration of Rs. 2,25,000/- and the same was registered vide sale deed document no. 3309/2011 dated 18.05.2011 at the Joint – II, Registrar of Tirunelveli, Tamil Nadu. It is submitted that M/s. Shubh Realty (South) Private Limited had purchased the impugned land alongwith other land parcels from one S. Chelladurai, and the same was registered as sale deed document no. 1138/2007 dated 26.04.2007 with Joint II Sub-registrar, Tirunelveli, District Tirunelveli. S. Chelladurai had purchased the land parcels including the impugned land from Ms. Omana vide registered sale deed no. 704/2007 dated 05.02.2007. It has been submitted by the Objector that Ms. Omana is the wife of Pradeep who died on 23.03.2004.

15. I have also perused the documents seized under MR No. 11936-16. Under the said MR No. two documents are seized. One document is an Agreement to Sell (ATS) dated 07.04.2003 entered between Pradeep S/o Prabhakaran R/o 1749, Thusath, 36 Division Kochi Corporation, District, Kerala, as seller and PACL Ltd. as purchaser, with respect to land admeasuring 45.87 Acres comprised in 13 survey numbers situated at Village – Mathavakurichi, Taluk – Tirunelveli, District – Tirunelveli, Tamil Nadu. From recitals to the said ATS, it is noted that total sale consideration for the land parcels sold under the ATS was Rs. 13,83,137/- out of which Rs. 5,00,000/- were paid by the purchaser to the seller as on the date of signing of the ATS and remaining Rs. 8, 83,137/- were to be paid by the purchaser within one year whereupon the seller was obliged to handover the possession of the land to the purchaser. The said ATS is signed at Delhi on 07.04.2003 and is unregistered. A receipt dated 12th April, with no year mentioned, as

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appended at the end of the said ATS, shows that an amount of Rs. 8,83,137/- was paid by way of cash, by PACL Ltd. to the seller. The said receipt was signed at Tirunelveli.

16. Another document seized under the said MR No. is a General Power of Attorney (GPA) dated 05.12.2003 given by Pradeep S/o Prabhakaran R/o Door no. 1749, Thusath, 36 Division Kochi Corporation, Kerala State in favour of Tarlochan Singh S/o Sandhu Singh R/o Bhojemajra – Village & Post, Ropar – Taluk and District, Punjab, with respect to land admeasuring 45.86 Acres comprised in 13 survey numbers situated at Village – Mathavakurichi, Taluk – Tirunelveli, District – Tirunelveli, Joint II Sub Registration District Tirunelveli, Tamil Nadu. The said GPA bearing no. 400/2003 is registered in Book No. 4/400/2003 in SRO, Ettiyapuram.

17. As can be noted from paras 15-16 above, Pradeep S/o Prabhakaran first entered into an ATS with PACL Ltd. on 07.04.2003 and thereafter, executed a GPA in favour of Tarlochan Singh on 05.12.2003. As has been noted from the various objection petitions filed so far, said Tarlochan Singh was the person in whose name PACL Ltd. and PGFL (an associate company of PACL Ltd.) used to purchase the properties. It is noted that ATS is unregistered whereas GPA is registered. With respect to ATS, 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. However, said ATS being agreement for sale of immovable property, gives right to the parties concerned to seek specific performance of such agreement. In terms of Article 54 of the Schedule to the Limitation Act, 1963, limitation period for seeking specific performance of a contract is 3 years from the date fixed for the performance of the contracts. A perusal of the ATS reveals that total consideration amount as per said ATS was Rs. 13,83137/-. Out of this amount, Rs. 5,00,000/- were paid on the date of ATS, i.e. 07.04.2003, at Delhi, and remaining consideration was to be paid by the

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purchaser within one year from the date execution of the ATS and the seller was required to hand over the possession of the land at the time of receipt of the balance sale consideration. As per receipt annexed to the ATS, balance sale consideration Rs. 8,83,137/- was paid on 12th April with year not mentioned, at Tirunelveli, Tamil Nadu. Thus, seller was required to deliver the possession to the purchaser on the date of payment of the balance consideration. Therefore, suit for seeking specific performance of these ATS is now barred by limitation.

18. With respect to acquisition of title through unregistered ATS dated 07.04.2003, reference may also be 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:

"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."

19. In view of the law laid down by the Hon'ble Supreme Court in *Suraj Lamp's case (supra)*, unregistered ATS did not convey any title in the immovable property covered thereunder, in favour of the purchaser. Regarding the applicability of Section 53A of TPA in the present case, it is noted that after the amendments made to Section 53A on

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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 ATA. Moreover, the Objector has stated that he is 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.

20. Now coming to the effect of the GPA dated 05.12.2003, 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, Ettiyapuram, Tamil Nadu. Regarding the correct place of registration of GPA, the reference may be 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.

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(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.”

21. 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, Tirunelveli, Tamil Nadu and not in the jurisdiction of SRO, Ettiyapuram, 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.

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

Place: Mumbai
Date: April 08, 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 वसुली अधिकारी
Deputy General Manager & Recovery Officer
न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
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