

ITEM NO.2

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.13301/2015

SUBRATA BHATTACHARYA

Appellant(s)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA & ORS.

Respondent(s)

(WITH IA No. 105681/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 75467/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 24654/2020 - CLARIFICATION/DIRECTION
 IA No. 38337/2019 - IMPLEADMENT
 IA No. 24686/2020 - IMPLEADMENT
 IA No. 38345/2019 - MODIFICATION)

WITH

C.A. No. 13394/2015 (XVII)

(IA No. 24485/2018 - DIRECTIONS and IA No. 24482/2018 - IMPLEADMENT
 APPLICATION)

Date : 04-03-2020 These applications were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
 HON'BLE MR. JUSTICE AJAY RASTOGI

For Appellant(s)

Mr. Jai A. Dehadrai, Adv.
 Mr. Sidharth Arora, Adv.
 Mr. Harshit Goel, Adv.
 Mr. Raghunyanu Taneja, Adv.
 Mr. Sameer Shrivastava, Adv.
 Mr. Somiran Sharma, AOR

Ms. Anubha Agrawal, AOR

For Respondent(s)
 SEBI

Mr. Pratap Venugopal, Adv.
 Ms. Surekha Raman, Adv.
 Mr. Parushottam K. Jha, Adv.
 Ms. Ayushi Gaur, Adv.
 Mr. Akhil Abraham Roy, Adv.
 Mr. Vijay Valson, Adv.
 For M/s K.J. John & Co.

Mr. R. Balasubramanian, Sr. Adv.
 Mr. Arijit Prasad, Sr. Adv.
 Mr. Pranay Ranjan, Adv.
 Mr. Abhishek Kumar, Adv.
 Mr. Arvind Kr. Sharma, Adv.

Mr. Zoheb Hossain, Adv.
Ms. Anil Katiyar, Adv.

Mr. Ashok Mathur, AOR

Mr. Ritesh Agrawal, AOR

Mrs. Anil Katiyar, AOR

Mrs. Rachana Joshi Issar, AOR

Mr. Rajinder Kumar Singh, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Sandhya Sharma, Adv.

Mr. Amit Kumar, AOR

Ms. Kamakshi S. Mehlwal, AOR

Mr. Somiran Sharma, AOR

Mr. Aditya Singh, AOR

Mr. Gagan Gupta, AOR

Mr. Suren Uppal, Adv.
Mr. Aviral Kashyap, AOR
Mr. Arpit Rai, Adv.
Ms. Sneha Baul, Adv.
Ms. Vimal Sinha, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Vinod Sharma, AOR

Mr. Hetu Arora Sethi, AOR

Ms. Shalu Sharma, AOR

Mr. Farhat Jahan Rehmani, AOR

Mr. Avadh Bihari Kaushik, AOR

Mr. Avishkar Singhvi, Adv.
Mr. P. N. Puri, AOR

Ms. Christi Jain, AOR

Ms. Aishwarya Bhati, Sr. Adv.
Mr. Suraj Kumar Singh, adv.
Mr. Gopal Jha, AOR

Mr. Harsh Vashisht, Adv.
Mr. Prakash Kumar Singh, AOR
Mr. Mohit D. Ram, AOR
Ms. Anuradha Mutatkar, AOR
Mr. Yadav Narender Singh, AOR
Ms. Pratibha Jain, AOR
Mr. Atishi Dipankar, AOR
Mr. Abhishek Singh, AOR
Mr. Avijit Mani Tripathi, AOR
Mr. Mohit Paul, AOR
Mr. Shivendra Singh, AOR
Ms. Priya Aristotle, AOR
Mr. Joel, AOR
Mr. Anjani Kumar Mishra, AOR
Mrs. Shubhangi Tuli, AOR
Ms. Jasmine Damkewala, AOR
Ms. Vaishali Sharma, Adv.
Ms. Manju Jetley, AOR
Mr. Shree Pal Singh, AOR
Mr. Rajeev Kumar Bansal, AOR
Mr. Jasbir Singh Malik, Adv.
Mr. Manish Kumar Tirthpuria, Adv.
Mr. Jay Purohit, Adv.
Mr. Fakhruddin Jadli, Adv.
Mr. Deepak Bansal, Adv.
Mr. Ravi Kr Tomar, Adv.
Ms. Bhavana Duhoon, Adv.
Ms. Uttara Babbar, Adv.
Mr. Manan Bansal, Adv.
Mr. A. Selvin Raja, Adv.
Mr. Aniruddha P Mayee, Adv.

Mr. V. Sakthi Subramanian, Adv.

Mr. Manoj M. Nayak, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA No 38337 of 2019 (Application for impleadment) and IA No 38345 of 2019 (Application for Directions) filed on behalf of Pinnacle Self Supporting Co-operative Welfare House Building Society Limited

IA No 38345 of 2019 has been instituted by Pinnacle Self Supporting Co-operative Welfare House Building Society Limited.

According to the applicant, an MOU was entered into on 13 August 2011 between PACL India Limited, Pearls Infrastructure Projects Limited and the applicant, under which, in consideration of a payment of Rs 7.50 crores per acre, land admeasuring five acres was to be conveyed to the applicant as a vendee. According to the applicant, an amount of Rs 15.10 crores was paid to PACL India Limited under and in pursuance of the MOU.

The applicant moved Mr R S Virk, formerly a District Judge, by an application dated 14 May 2016, seeking a refund of the amount of Rs 15.10 crores, together with interest, or in the alternative, a reduction in the cost of the allotted land. Mr Virk, by a report dated 14 March 2018, came to the conclusion that since he has been

authorised to hear objections/representations in respect of the work which had been undertaken by the PACL Committee specific to the attachment and sale of properties of PACL India Limited for payment of sale proceeds to the investors, the relief which was sought by the applicant herein was outside his remit.

Thereafter, when IA No 65030 of 2017 was moved before this Court, it was permitted to be withdrawn by an order dated 12 February 2019 to enable the applicant to file an appropriate IA seeking alternative prayers. The order, insofar as is material, reads as follows:

"I.A.No.65030/2017 - Mr. P.S. Patwalia, learned senior counsel appearing on behalf of the applicant seeks the permission of the Court to withdraw the I.A. seeking refund of moneys so as to enable the applicant to file an appropriate I.A. seeking alternative prayers. The I.A. is accordingly dismissed as withdrawn."

In the application which has been moved presently, various reliefs have been claimed.

Mr P S Patwalia, learned senior counsel appearing on behalf of the applicant, submitted that a letter was addressed by PACL India Limited to the applicant on 18 December 2015 stating that as a result of certain disputes which had occurred over the construction of a boundary wall, the company had not been able to complete

the proposed sale. Hence, it has been submitted on behalf of the applicant that the Court may issue a direction for the allotment of the land to the applicant at the circle rate applicable for developed land which works out to Rs 5.51 crores per acre, or in the alternative, on the basis that the land has not been developed and is agricultural land at the rate of Rs 1.98 crores per acre.

Before we consider whether any such reliefs can be entertained at all, having regard to the terms of the MOU stated to have been agreed between PACL India Limited, Pearls Infrastructure Projects Limited and the applicant, it is necessary for the Court to be fully apprised of the genuineness of the MOU, the alleged payment of consideration under the MOU and all other relevant facts and circumstances on the basis of which the application has been filed. Mr R S Virk did not enquire into the genuineness of the transaction, or for that matter into any facets of the claim made by the applicant since he was of the view that it would lie outside his remit. We are of the view that it would be appropriate to make a specific request to Mr R S Virk to look into the claims which have been made in the application on behalf of the applicant and to submit a report before this Court within a period of four weeks from today.

Mr R S Virk is requested to look into all aspects of the purported transaction, including in regard to its genuineness, valuation and the rate as proposed in the agreement, in order to enable the Court to have a considered view of the matter.

The applicant shall furnish Mr R S Virk a complete set of papers in the application. In addition, the applicant shall produce all other information and documents as may be required by Mr R S Virk for the purpose of completing his evaluation and submitting his report. In the event that Mr R S Virk requires any exercise to be taken by a professional agency or third party, it would be open to him to have this conducted at the cost of the applicant which shall be deposited in advance before him.

The Registry is directed to send a copy of this order to Mr R S Virk.

List the applications on 15 April 2020.

IA No 105681 of 2019 (Application for directions filed by Pearl City Mohali Residents Welfare Association)

In the affidavit which has been filed in response to the application by the State of Punjab, it has been stated that it was the liability of the developer - PACL to complete the internal development work at its cost

upon which a completion certificate was required to be obtained from GMADA. However, PACL has not completed the internal development work. It has been stated that a draft completion certificate has been issued on 11 December 2015 with regard to the project in Sector 104. The affidavit by the State states that, subject to the directions of the Court, it may issue directions to GMADA to complete the internal development work of the project falling in Sectors 100 and 104. However, according to the State government, the requisite funds would have to be made available by SEBI to GMADA for the purpose.

Mr Pratap Venugopal, learned counsel appearing on behalf of SEBI, states that there is no question of SEBI making these funds available to GMADA for carrying out the internal development work.

On behalf of the applicants, it has been stated that the balance which is due and payable by the allottees would be more than sufficient to recover the cost of the internal development work which is payable to GMADA.

Before proceeding further with this application, we issue a direction to GMADA to estimate the amount which would be payable on account of the work of internal development and to submit a report before this Court, on affidavit, within a period of four weeks from today.

List the application on 15 April 2020.

In the meantime, in order to enable the Court to consider the nature of the relief which has been sought in the application, we are of the view that it is necessary for the applicant to make a full and complete disclosure of:

- (i) The names of the allottees of the plots in Sectors 100 and 104;
- (ii) The dates on which the respective agreements were entered into;
- (iii) The mode and dates of payment of consideration in terms of the agreements; and
- (iv) Whether the original allottees still continue to be members of the applicant or whether there has been subsequent transfer of rights;

All other relevant details, including the above, shall be furnished by the applicant on affidavit within a period of four weeks from today.

IA Nos 24482, 24485, 24487 of 2018 (Applications for intervention, directions and stay on behalf of Pearl's Township Plot Holders Welfare Association)

In order to enable the Court to consider the nature of the relief which has been sought in the applications,

we are of the view that it is necessary for the applicant to make a full and complete disclosure of:

- (i) The names of the allottees of the plots;
- (ii) The dates on which the respective agreements were entered into;
- (iii) The mode and dates of payment of consideration in terms of the agreements; and
- (iv) Whether the original allottees still continue to be members of the applicant or whether there has been subsequent transfer of rights;

All other relevant details, including the above, shall be furnished by the applicant, on affidavit, within a period of four weeks from today.

List the applications on 15 April 2020.

In the meantime, we direct the Bhatinda Development Authority to submit a report before this Court indicating the cost for completing the remaining work of internal development within a period of four weeks from today.

IA Nos 24686 of 2020 and 24656 of 2020 (Applications for impleadment and direction filed by PACL-PGF Investors Welfare Association)

Mr Pratap Venugopal, learned counsel appearing on behalf of SEBI, states that he would file an affidavit on

behalf of SEBI indicating the steps which have been taken to ensure that no unauthorized registration of land where PACL has interest takes place in breach of the orders of this Court.

List the applications on 15 April 2020.

IA 75467 of 2019 (Application for directions filed by Banson Estate Private Limited)

List the application on 15 April 2020.

IA No 191765 of 2019 in Civil Appeal No 13301 of 2015

Upon being mentioned, taken on board.

List the application on 15 April 2020.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER