

ITEM NO.28

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).13301/2015

SUBRATA BHATTACHARYA

APPELLANT(S)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA & ORS.

RESPONDENT(S)

(IA No.167787/2019-APPROPRIATE ORDERS/DIRECTIONS and IA No. 147818/2019-CLARIFICATION/DIRECTION and IA No.69580/2018-CLARIFICATION/DIRECTION)

Date : 18-12-2019 This matter was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s)

Mr.M.L.Lahoty, Adv.
Mr.Paban K. Sharma, Adv.
Mr.Anchit Sripat, Adv.
Mr.Sameer Shrivastava, Adv.

Mr.Krishna Kumar Singh, AOR

For Respondent(s)

(Union of India)

Mr.Sanjay Jain, ASG
Mr.Arijit Prasad, Sr.Adv.
Mr.Zoheb Hassan, Adv.
Mr.Pranay Ranjan, Adv.
Mrs.Anil Katiyar, Adv.

(For CBI)

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

(SEBI)

Mr.Pratap Venugopal, Adv.
Ms.Surekha Raman, Adv.
Mr.Purushottam Kumar Jha, Adv.
Mr.Akhil Abraham Roy, Adv.
Mr.Vijay Valsan, Adv.
M/s K.J.John & Co.

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

Mr.Yadav Narender Singh, Adv.
Mr.Deepak Kumar, Adv.
Mr.Prerit Shukla, Adv.

Mr.Girish Patel, Adv.
Mr.Ilin Saraswat, Adv.
Mr.Rajeev Kumar Bansal, Adv.
Mr.Sanjeev Bansal, Adv.

Mr.M.P.Singh, Adv.
Mr.Rajeev Kumar Bansal, Adv.

Ms.Anubha Agrawal, Adv.
Mr.Ambuj Agrawal, Adv.

(For Impleadment) Ms.Jasmine Damkewala, Adv.
Mr.Shaurya Vardhan, Adv.

(For Impleadment) Mr.Shree Pal Singh, Adv.
Mr.Swarn Kumar, Adv.

(For Applicant) Mr.Ritesh Agrawal, Adv.
Mr.Teejas Bhatia, Adv.
Mr.Aishwarya Adlakha, Adv.

Mr.Joseph Aristotle, Adv.
Mrs.Priya Aristotle, Adv.
Ms.Sneha, Adv.

Mr.Aditya Singh, Adv.
Mr.Vikas Gupta, Adv.
Mr.Rajiv Dalal, Adv.

Mr.Gagan Gupta, AOR

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Mr.Mukesh Kumar Maroria, AOR

Mr.Vinod Sharma, AOR

Mr.Ritesh Agrawal, AOR

Mrs.Rachana Joshi Issar, AOR

Mr.Amit Kumar, AOR

Ms.Kamakshi S. Mehlwal, AOR

Mr.Somiran Sharma, AOR

Mr.Hetu Arora Sethi, AOR

Ms.Shalu Sharma, AOR

Mr.Farhat Jahan Rehmani, AOR

Mr.Atishi Dipankar, AOR

Mr.Abhishek Singh, AOR

Mr.Avijit Mani Tripathi, AOR

Mr.Mohit Paul, AOR

Mr.Shivendra Singh, AOR

Mr.Joel, AOR

Mr.Anjani Kumar Mishra, AOR

Mrs.Shubhangi Tuli, AOR

Mr.Avadh Bihari Kaushik, AOR

Mr.P.N.Puri, AOR

Ms.Christi Jain, AOR

Mr.Gopal Jha, AOR

Mr.Prakash Kumar Singh, AOR

Mr.Mohit D. Ram, AOR

Ms.Anuradha Mutatkar, AOR

Ms.Pratibha Jain, AOR

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

IA No.167787 of 2019 in CA No 13301/2015

In the present IA the relief which has been sought is
in the following terms:

“Allow the present application for direction to the Respondent to issue No Objection Certificate in regard to the properties attached of the applicant so that the said properties can be brought out of the auction list.”

The claim of the applicant has been evaluated by Mr R S Virk, former District Judge in an order dated 6 July 2018. The District Judge came to the conclusion that the claim of the applicant of having purchased the property for value has been established. The conclusion in the order dated 6 July 2018 is reproduced below:

“In view of the foregoing discussion, the objector above named is held to be a bona fide purchaser for value of the property in question and the same is therefore liable to be removed from the list of properties attached by the committee as per www.auctionpacl.com. The petition is accordingly accepted.”

It may be noted that Mr RS Virk by order dated 15 November 2017 was appointed for the purpose of scrutinising the grievances. Mr.Pratap Venugopal, learned counsel appearing for the SEBI states that a close scrutiny has been conducted by a court appointed former

District Judge and there can be no objection if the application is allowed.

We accordingly allow this application and confirm the order dated 6 July 2018 of Mr RS Virk.

IA No 69580 of 2018 in CA No 13301/2015

By an order dated 22 February 2007, the Committee presided over by Hon'ble Mr Justice RM Lodha has scrutinised the claim of the applicant and has come to the following conclusion:

"In the light of the entire material placed by the Objectors and in the absence of any material by PACL otherwise, it is clear that most of the activities relating to the subject sale transactions, except the execution of Sale Deeds, was completed before the order was passed by the Hon'ble Supreme Court and constitution of the Committee. The agreement for sale relating to 2.540 acres of the subject land was executed on 14.07.2015, consideration of Rs.5,00,00,000/- (Rs.Five Crore only) for the said transaction was paid to the Seller by cheque on 15.06.2015, the possession of the said land was handed over to the Objectors on 14.07.2015, another Agreement for Sale of subject land admeasuring 8.7 acres was entered into with the Seller on 24.12.2015, part consideration of Rs.5,00,00,000/- under this agreement was paid by cheque to the Seller Company and undated cheques for remaining consideration were handed over to Shri B.K.Bhullar-authorized person on behalf of the Seller, possession of the said land was handed over to the Objectors on 24.12.2015, NOCs from the Revenue Department were obtained by the Objectors on 14.01.2016 and part E-Stamp Papers and Registration Fees were deposited/purchased on

11.01.2016 and 01.02.2016. The activities done after 02.02.2016 are (I) the purchase of part E-Stamp Papers (12.02.2016) and (ii) the execution of two Sale Deeds on 08.02.2016 and 15.02.2016.

Moreover, the Objectors have shown their bonafides by depositing Rs. 40 crores (Rs. 39.5 crores in the account of SEBI and rest towards TDS) against the remaining consideration. The consideration agreed to by the Objectors under the subject Sale Deeds seems to be much higher than the prescribed circle rate and certain other sales in the same around the same period.

The Committee, therefore, finds good reason to accept the sale affected by the Company in favour of Hitesh Packaging Pvt. Ltd. This is, however, subject to appropriate directions in this regard from the Hon'ble Supreme Court."

Since the Committee has duly scrutinized the claim and found it to be valid, we confirm the recommendations contained in the Minutes dated 22 February 2017 of the Justice RM Lodha Committee. All consequential steps be taken.

IA No 69580 of 2018 is disposed of accordingly.

IA No 186866 of 2019 in CA No 13301/2015

List on 9 January 2020.

(Ashok Raj Singh)
Court Master

(Saroj Kumari Gaur)
Court Master