

ITEM NO.4

COURT NO.12

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)

(WITH IA 105085/2018-APPROPRIATE ORDERS/DIRECTIONS, IA NO. 38646/2018-APPROPRIATE ORDERS/DIRECTIONS, IA NO. 26147/2018-APPROPRIATE ORDERS/DIRECTIONS, IA NO. 75361/2017-MODIFICATION OF COURT ORDER, IA NO. 101649/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA NO. 65030/2017-PERMISSION TO FILE APPLICATION FOR DIRECTION)

WITH

C.A. No. 13319/2015 (XVII)

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

(FOR [Impleadment] ON IA 3/2015, FOR INTERVENTION APPLICATION ON IA 5/2016, FOR [directions] ON IA 14/2016, FOR impleading party ON IA 13587/2018, FOR INTERVENTION APPLICATION ON IA 24482/2018, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 24485/2018, FOR STAY APPLICATION ON IA 24487/2018, FOR INTERVENTION APPLICATION ON IA 67399/2018, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 67404/2018 FOR INTERVENTION/IMPLEADMENT ON IA 88984/2018, FOR CLARIFICATION/DIRECTION ON IA 88986/2018, FOR APPLICATION FOR PERMISSION ON IA 140928/2018)

C.A. No. 13410/2015 (XVII)

(IA 131617/2017-CLARIFICATION/DIRECTION)

W.P.(C) No. 640/2016 (X)

(IA 102672/2017-CLARIFICATION/DIRECTION)

W.P.(C) No. 1330/2018 (X)

SLP(C) NO. 31791/2018 (XVI)

SLP(C) NO. 31585/2018 (XIV)

(IA 171780/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA 184155/2018-INTERVENTION/IMPLEADMENT)

Date : 12-02-2019 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HEMANT GUPTA

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

In pursuance of the previous order of this Court dated 8 January 2019, a report has been received from the three Member Committee chaired by Hon'ble Mr Justice R M Lodha, former Chief Justice of India. The Committee has indicated that immediately after the previous order of this Court, it held a meeting on 16 January 2019 to explore the option of engaging Asset Reconstruction Companies (ARCs) for the sale of the properties of PACL Ltd.

On 17 January 2019, some of the members of the Committee met with the representatives of four of the largest ARCs, based on the value of the assets acquired. During the course of the meeting, it transpired that in view of the provision of Section 10(2) of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002¹, the prior approval of the Reserve Bank of India may be necessitated to undertake the task proposed to be assigned. Accordingly, communications were addressed to the RBI on 21 January 2019 and 29 January 2019. Following this, on 5 February 2019, RBI has stated that it is agreeable in principle to the Justice Lodha Committee engaging ARCs for the disposal of the
1 the SARFAESI Act

assets of PACL Ltd. subject to the condition that they do not take the assets on their books and do not incur pecuniary liabilities. Accordingly, it has been stated that necessary permission under Section 10(2) will be communicated to the ARCs based on the submission of the Committee to this Court and the directions thereon.

The Committee has placed the relevant facts before the Court in its Report. The Committee has also indicated that it has considered alternative modalities for the sale of properties of PACL Ltd., including the option of engaging Resolution Professionals for the purpose of assisting it. The Committee is also looking into the possibility of involving other banks/NBFCs/financial institutions etc. and of engaging property consultants with international credentials. However, it has been indicated that these alternative modalities would require a further and detailed consideration.

In the above background, we authorise the Justice Lodha Committee to proceed further along the lines that the Committee has indicated in its Report dated 8 February 2019 submitted before this Court.

Apart from proceeding to finalise the modalities for engaging the services of ARCs for disposal of the assets of PACL Ltd., the Committee is at liberty to explore other alternatives as well.

The Committee may submit a further report to this Court three months from today. In the event that any further directions of this Court are necessitated within the above period, the Committee would be at liberty to place a Report before this court through the

learned counsel appearing on behalf of SEBI.

SEBI is permitted to place the Report of the Justice Lodha Committee dated 8 February 2019 on its website.

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.

I.A. No. 105085/2018 - Learned 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.

I.A. No. 38646/2018- The present I.A. has become infructuous and is accordingly, dismissed as such.

I.A. No. 26147/2018, I.A. No. 75361/2017 and I.A. No. 101649/2017

List these I.As. next week.

(MANISH SETHI)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
BRANCH OFFICER