

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(s). 13301/2015

SUBRATA BHATTACHARYA

Appellant(s)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA & ORS.

Respondent(s)

([LIST ON 30.07.2019 FOR CONSIDERATION OF THE REPORT SUBMITTED BY
THE HON. MR. JUSTICE R.M. LODHA COMMITTEE]
IA No. 107488/2019 - CLARIFICATION/DIRECTION)

Date : 30-07-2019 This matter was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Appellant(s) Mr. Jai A. Dehadrai, adv.
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For Respondent(s) Mr. Gopal Sankaranarayanan, Sr. Adv.
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Mr. Manoj Nayak, Adv.
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Mrs. Anshu Vachher, Adv.
Mrs. Rajshree Dubey, Adv.
Mrs. Madhurima Mridul, Adv.
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Ms. Christi Jain, AOR
Mr. Gopal Jha, AOR

Mr. Mohit D. Ram, AOR
Ms. Anuradha Mutatkar, AOR
Mr. Yadav Narender Singh, AOR
Ms. Pratibha Jain, AOR
Mr. Atishi Dipankar, AOR
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Mr. Avijit Mani Tripathi, AOR
Mr. Mohit Paul, AOR
Mr. Shivendra Singh, AOR

Mr. Joseph Aristotle, Adv.
Ms. Priya Aristotle, AOR
Mr. Rijuk Sarkar, Adv.

Mr. Joel, AOR
Mr. Anjani Kumar Mishra, AOR
Mrs. Shubhangi Tuli, AOR
Ms. Jasmine Damkewala, AOR

Mr. Ankur Kumar, Adv.

Mr. Siddharth Acharya, Adv.
Mr. Shree Pal Singh, AOR

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

Mr. Rajinder Kumar Singh, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K.Rajora, Adv.

Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Ms. Viddusshi, Adv.
Mr. Akhil Abaraham Roy, Adv.

Mr. Manoj Prasad, Sr. Adv.
Mr. Prakash K. Singh, Adv.
Ms. Richa Kapoor, AOR
Mr. Kunal Ananad, Adv.
Ms. Ayushi Rajput, Adv.

Ms. Jasmine Damkewala, AOR
Mr. Shaurya Vardhan, Adv.

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

The report of the Committee Chaired by Hon'ble Mr Justice R M Lodha, Former Chief Justice of India, in pursuance of the order of this Court dated 12 February 2019, has been placed before the Court. In pursuance of the earlier directions of this Court the report has been uploaded by SEBI on its website so as to enable all those who may have a valid interest to make submissions before this Court. Diverse viewpoints have been placed before this Court by learned counsel appearing on behalf of prospective bidders as well as on behalf of PACL. We have also heard learned counsel appearing on behalf of SEBI.

At this stage, from the report of the Justice Lodha Committee, it emerges that the Committee has carried out a substantial and

comprehensive exercise for the purpose of exploring the possibility of associating Assets Reconstruction Companies¹ in the process of the sale of properties belonging to PACL. The Committee received offers from five ARCs. While evaluating the offers the Committee has noted the terms on which the offers were submitted and found it difficult to objectively compare the offered rate of fee as well as the time periods involved for sale. However, a tentative statement of comparative costs liable to be incurred has been tabulated.

The Committee has also adverted to the prior auction exercises conducted by it when Expressions of Interest were invited for as many as 27,500 properties. The entire exercise has been summarized as follows:

“(i) EOIs were invited for a total of twenty seven thousand five hundred (27,500) properties.

(ii) However, EOIs were received for four thousand one hundred and three (4,103) properties; thus, in the case of about 85% of the properties, there was no interest in the market to purchase the same.

(iii) For the properties where EOIs were received, numerous objections were also received, due to which the Committee could not proceed further in conducting sale of such properties.

(iv) About one thousand five hundred and sixty (1560) properties could be allotted to the agencies for undertaking auction process including valuation etc.

(v) Agencies appointed by the Committee, while

1 ‘ARCs’

conducting pre-auction activities like valuation, etc. faced several issues, such as identification of properties title, valuation, marketability etc. Considering the aforesaid issues, one thousand and twenty four (1024) properties could be put up for auction sale.

(vi) Of the properties put for auction buyers showed interest by submitting EMDs with respect to two hundred and fifty (250) properties.

(vii) At the conclusion of the second auction process a total of 113 properties were sold by the Committee realising a sum of Rs. 86.20 crore."

In this backdrop the Committee has now stated that it has received, what is described as 'suo motu Proposals/Expressions of Interest'.

A proposal has been received from Indo-UK Institutes of Health (IUIH) Programme for Acquisition of Land for creation of Medicities. Para 10.1 of the report of the Justice Lodha Committee has adverted to the proposal which in the opinion of the Committee deserves to be followed since substantial areas/properties which could be sold. The IUIH programme is in pursuance of a joint effort of the U.K. and Indian Governments for the creation of Medicities in different parts of India. The Committee has noted that a Task Force has been constituted under the Chairmanship of the Secretary, Department of Health and Family Welfare for setting up 11 institutes across India. Hence the Committee proposes to discuss the matter further with the Department of Health and Family

Welfare. We authorize the Committee to take the matter further and to pursue the above line of discussions to explore whether a substantive outcome can be achieved. The Committee will keep this Court apprised of further developments before taking a final decision.

The report of the Committee also states that various State Governments have land pooling policies for the development of lands/infrastructure with the involvement of the private sector. With the involvement of the State Governments/Authorities/Agencies/Government support, their initiatives should be further explored. Mr. Gopal Sankaranarayanan, learned Senior Counsel appearing on behalf of the PACL has submitted before this Court that three development authorities respectively for the areas comprised in (i) Greater Mohali; (ii) Bathinda; and (iii) Greater Ludhiana can be approached for exploring the possibility of the development of land by the State Governments with the involvement of the private sector. In view of the report of the Committee, we authorise the Committee to act in pursuance of the proposed course of action. In the event that the Committee finds that any concrete course of action can be adopted in terms of the policies of the State Governments or development authorities, it would be at liberty to take further steps in that regard.

We also leave it open to the Committee to receive any further offers and to explore them after duly publishing a further notice on the website. The intervenors in the present proceedings, would be at liberty to submit their Expressions of Interest to the Justice Lodha Committee for evaluation. We clarify that we have

not expressed any opinion on the 'viability' or the genuineness of the offers which are purportedly being placed on behalf of the intervenors and leave it to the Committee to take a decision in the matter.

The Justice Lodha Committee is further authorised to negotiate with the ARCs or, the case may be, non-banking companies and renowned property consultants, as referred to in its report, to explore any alternative modalities for the sale of the properties.

List the matter after four weeks along with I.A. No. 106299 of 2019 and I.A. No. 106305 of 2019.

I.A. No. 107488/2019

The Interlocutory Application is disposed of.

I.A. No. _____/2019 (Application for Intervention filed by Ms. Richa Kapoor).

Taken on board.

The Interlocutory Application is disposed of.

(POOJA CHOPRA)
COURT MASTER

(SAROJ KUMARI GAUR)
BRANCH OFFICER