

## Before Shri R.S. Virk, District Judge (RETD.)

appointed to hear objections/representations in the matter of PACL Ltd.  
as referred to in the order dated 15/11/2017, of the Hon'ble Supreme Court  
passed in civil appeal no. 13301/2015 titled Subrata Bhattacharya vs SEBI.

**File No. 155 (MR NO. 32863-16)**

**Objection:** By Mr. Safdar Ali Safar Ali Shaikh

**Present :** Sh. Vindu Prakash Pandey (Enrolment no. MAH/3411/2007) and  
Sh. Pushpa Raj Singh, Advocates (Bombay) for the objectors

### Order

1. The above named objector is staking claim to purchase from the committee an area measuring 5000 sq. ft. out of 13,000 sq. ft. bearing property no. CTS No. 39 B, (2386.7sq. mts.) situated at Juhu Vile Parle development scheme, Mumbai Suburban distt., Vile Juhu, Vile Parle (West), Mumbai qua which PACL Ltd. had statedly executed a memorandum of understanding dated 18/02/2013 whereby the above described property was to be developed within 24 months to be computed from the said date.
2. It is claimed that one Mohammad Mahmood Ajiz Khan was in peaceful possession of the above described property prior to 1965 and after his death, his son Mohammad Mustaqin Khan appointed Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma as his lawful attorneys vide deed dated 09/03/2006 (Annexure A) to look after the said properties and also handed over to them possession of the said property for the said purpose. The above named attorneys Samir and Rakesh statedly appointed the above named objector Mr. Safdar Ali Safar Ali Shaikh as their lawful attorney vide attorney deed dated 02/02/2010 (Annexure B) to look after the said property and statedly handed over possession of the said property to the objector.
3. It is claimed interalia that PACL had entered into an agreement dated 18/07/2010 with Mr. Safdar Ali Safar Ali Shaikh whereby it had agreed to pay a lumpsum of amount of Rs. 2,75,00,000 /- (Two crores and seventy five lakhs) towards surrender of the said property in its favour.
4. It is further averred that vide deed of conveyance dated 30/07/2010, the original owner of the said property, without disturbing the applicant as against his stated rights and acknowledging the claim of Mohammad Mahmood Ajiz Khan above named, sold the said property to PACL.
5. It is also averred that in addition to the agreement dated 18/07/2010 adverted to above, PACL had also entered into another MOU dated 18/02/2013 with Mr. Safdar Ali Safar Ali Shaikh along with Mohammad Mustaqin Khan, Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma whereby it was agreed that Mr. Safdar Ali Safar Ali Shaikh shall be allotted an area measuring 5000sq. ft. out of the construction to be raised on the remainder of the said property measuring 13000 sq. ft. but till such area is allotted to him, he shall retain possession of the entire area measuring 13000 sq. ft.

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It was also statedly agreed between Mr. Safdar Ali Safar Ali Shaikh and the above named Mohammad Mustaqin Khan, Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma that the monetary part to be derived from PACL will be retained by the three of them whereas the saleable area will come directly to his ownership.

6. The applicant thus claims that he should be permitted to purchase from the committee the above described property at a reasonable rate.
7. I have heard the learned counsel for the objector and have gone through the case file which reveals that the objector Mr. Safdar Ali Safar Ali Shaikh is claiming to be in possession of an area measuring 5000 sq. ft. out of 13,000 sq. ft. bearing property no. CTS No. 39 B, (2386.7sq. mts.) situated at Juhu Vile Parle development scheme, Mumbai Suburban distt., Vile Juhu, Vile Parle (West), Mumbai on the strength of attorney deed dated 02/02/2010 (Annexure B) statedly executed in his favour by Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma who in turn had been appointed prior thereto by Mohammad Mustaqin Khan s/o Mohammad Mahmood Ajiz Khan as his attorneys vide attorney deed dated 09/03/2006 (Annexure A) in respect of the above described land whereas the above referred attorney deed dated 09/03/2006 statedly executed by Mohammad Mustaqin Khan s/o Mohammad Mahmood Ajiz Khan in favour of above named Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma describes mentions that they were being appointed as his attorneys in respect of an area measuring about 13 Gunthas = 1315.74 sq. mts. = 14,157 sq. ft. bearing survey no. 70 part, CTS no. 39 – B. It will thus be seen that the area over which the above named objector stakes possession is not entirely identical with the total area mentioned in the above referred attorney deed dated 09/03/2006 which in turn forms the basis of further execution of subsequent attorney deed dated 02/02/2010 in favour of objector which also mentions the total area covered by the said attorney deed to be 13 Gunthas = 1315.74 sq. mts. = 14,157 sq. ft. bearing survey no. 70 part, CTS no. 39 – B.
8. It may next be noticed that the attorney deed dated 09/03/2006 executed by Mohammad Mustaqin Khan s/o Mohammad Mahmood Ajiz Khan in favour of Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma contained a specific clause no. 27 that his above named attorneys can sell the said property to any person but the attorney deed dated 02/02/2010 (containing 15 clauses) executed by Mr. Samir Salim Baig and Mr. Rakesh Bholram Sharma in favour of above named Mr. Safdar Ali Safar Ali Shaikh nowhere authorises him to sell the property and therefore it belies comprehension as to how he could stay possession against the true owner namely Mohammad Mustaqin Khan s/o Mohammad Mahmood Ajiz Khan who has sold the said property to PACL vide conveyance dated 30/07/2010. Thus in the face of PACL acquiring ownership rights over the above described land which in view of the order of the Hon'ble Supreme Court is liable to be sold, the objection petition in hand is liable to be and is hereby dismissed.

**Date: 12/01/2018**

  
**R. S. Virk**

**Distt. Judge (Retd. )**