

Before Shri R.S. Virk, District Judge (RETD.)
appointed to hear objections/representations in the matter of PACL Ltd.
(as referred to in the orders dated 15/11/2017, 13/04/2018 and 02/07/2018 of
the Hon'ble Supreme Court passed in civil appeal no. 13301/2015 titled Subrata
Bhattacharya Vs SEBI, and also duly notified in SEBI Press release no. 66 dated
08/12/2017).

File no. 468 (For review of order dated 23/02/2018 File No. 295)

MR Nos. 25054-16 and 25048-16

Objector Applicant : Pramod Babulal Shah and Kishore Nandlal Shah

Present : Sh. Gudipati G. Kashyap, Advocate Delhi
(Enrolment No. D/3906/2013)
with Sh Prakash D Bhaygude, Advocate, Pune
(Enrolment No.NAH/5923/2009) for the applicant

Order :

1. This application was filed by the objector above named on 20/04/2018 seeking recall of my order dated 23/02/2018 passed in File No. 295 (Catalogue No 90) whereby the objection petition dated 16/09/2016 addressed to the Nodal Officer cum Secretary to Justice R.M. Lodha (Retd.) Committee in the matter of PACL was dismissed.
2. Review of the order dated 23/02/2018 is sought on the following grounds : -
 - (i) The objector Pramod Babulal Shah above named in his letters dated 16/09/2016 and 01/10/2016 addressed to the Nodal Officer of this Committee while seeking release from attachment of the property detailed therein had specified that land comprised in Gat No. 400 and 420 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by him from Indrajeet Shankar Waghmare & Seven others named therein vide sale deed dated 17/02/2016 after due permission of the collector and mutation no. 12118 stands duly entered in the revenue record.
 - (ii) Simultaneously, his co-objector Kishore Nandlal Shah above named in his letters dated 16/09/2016 and 01/10/2016 addressed to the Nodal Officer of this Committee while seeking release from attachment of the property detailed therein had specified that land comprised in Gat Nos. 414, 418 and 427 situated at Village Wagholi, Taluka Haveli, District Pune was purchased by him from Vasant Umaji Waghmare & nine

*R.V. Virk
10/8/18*

others named therein vide sale deed dated 24/09/2015 after due permission of the collector.

3. (i) It is contended that in File No. 295 which was disposed off vide order dated 23/02/2018 there were two objectors but the order was confined to the objection raised by Pramod Babulal Shah whereas no specific order was passed qua the objection raised by Kishore Nandlal Shah which is yet to be decided.

(ii) The order dated 23/02/2018 was passed in haste without giving an opportunity to the applicant to file additional documents such as bank statements to substantiate the objections raised.

(iii) The order dated 23/02/2018 wrongly reflects that the objection petition was dismissed as withdrawn although in fact it was not withdrawn.

(iv) The objection petition was accompanied with voluminous documents such as mutations and sale deeds etc in Marathi language and translation thereof took time because the Advocates are Delhi based but they were not given time to produce translations thereof as the tenure of this committee was only for three months

(v) The name of M/s Greenfiled Esates as having been the purchaser of the property in question has cropped up for the first time in the impugned order dated 23/02/2018.

(vi) The case of the objectors herein is at par with that of Sh. Rajesh Jiwan Uttam Chandani & Sh. Govind Jiwan Uttam Chandani whose objection petition has been accepted by this committee vide order dated 27/03/2018.

(vii) The balance of convenience lies in favour of the applicant/objectors.

4. The application for review in so far as the gross delay in filing the same is concerned was allowed vide my order dated 10/07/2018, subject to deposit of Rs.1,00,000/- (One Lakh) by the applicants with NRO, SEBI which has been so deposited as per DD No.000300 dated 21/07/2018 drawn on Axis Bank, Bundgarden Branch, Pune (IFSC Code. UTIB0000073).

5. In the light of the provisions contained in order 47, rule 1 of the Code of Civil Procedure, 1908 read in the backdrop of observations of the Hon'ble Supreme Court in the case titled Board of Control for Cricket in India and another Versus Netaji Cricket Club and others reported in (2005) 4 Supreme Court Case 741, the application for review is held to be maintainable.

R. N. N. N.
10/8/18

6. First coming to the ground put forth in the review application as reproduced in para 2(i) of this order above regarding the documents produced on record being in Marathi language and translation thereof having taken time, it suffices to mention that the said documents should have been filed alongwith the requisite translation when the objection petition was instituted on 16/09/2016 which was not done even despite my order dated 30/01/2018 and non-production of such translations till the hearing of the objection petition is not in itself a ground for review but nevertheless, the said translations are now taken on record for perusal because the relevant sale transactions are now accompanied with certified bank statements as being discussed in the next para.
7. It may be specifically pointed out here that as per the consolidated chart of various Gat Nos. 400, 414, 418, 420 and 427 situated at village Wagholi compiled by the counsel for the objector from the revenue documents on record and duly signed by him, each of these Gat Nos. comprises large parcels of lands which have been transferred in fragmented pieces by the respective land owners to different persons. This chart has been produced only during the course of arguments on the review application.
8. Next coming to the ground put forth in the review application, as reproduced in para 2(ii) of this order above, with reference to my observation in para 5 of the impugned order dated 23/02/2018, inter-alia regarding non-production of bank statements, it may be noticed that the objector has, with hindsight wisdom, filed, though belatedly, alongwith the review application, the bank statements evidencing payment of sale consideration of the under mentioned amounts to the owners of the lands comprised in different Gat Nos as detailed hereunder:-

Chart pertaining to land statedly purchased by Pramod Babulal Shah

| Gat | Total Area | Purchased Area | Document No, | Name of the Seller | Ch. No. | Date | Amount | Bank |
|-----|------------|----------------|--------------|----------------------------|---------|-----------|---------|-------------|
| 400 | 04 H 2 R | 00 H 50.25 R | 1931/2016 | Indrajeet Shankar Waghmare | 205391 | 14/1/2016 | 2000000 | Canara Bank |
| 420 | 01 H 96 R | 00 H 49 R | | Sunita Indrajeet Waghmare | 205392 | 14/1/2016 | 1000000 | Canara Bank |
| | | | | Rajendra Shankar Waghmare | 205393 | 14/1/2016 | 2000000 | Canara Bank |
| | | | | Seema Rajendra Waghmare | 205394 | 14/1/2016 | 1000000 | Canara Bank |
| | | | | Nanda Satish Sawant | 205395 | 14/1/2016 | 3000000 | Canara Bank |
| | | | | Shobha Yashwant Waghmare | 205396 | 14/1/2016 | 5400000 | Canara Bank |
| | | | | Pritam yashwant Waghmare | 205397 | 14/1/2016 | 200000 | Canara |

| | | | | | | | | |
|--|--|--|--|----------------------------|--------|-----------|--------|-------------|
| | | | | | | | | Bank |
| | | | | Prashant Yashwant Waghmare | 205398 | 14/1/2016 | 200000 | Canara Bank |
| | | | | Sulbha Yashwant Waghmare | 205399 | 14/1/2016 | 200000 | Canara Bank |

Chart pertaining to land statedly purchased by Kishore Nandlal Shah

| Gat | Total Area | Purchased Area | Document No, | Name of the Seller | Ch. No. | Date | Amount | Bank |
|-----|------------|----------------|--------------|---------------------------|---------|------------|---------|--------------|
| 414 | 03 H 20 R | 01 H 60 R | 6663/2012 | Baban Rama Waghmare | 818230 | 12-08-2008 | 400000 | HDFC , Thane |
| 417 | 01 H 90 R | 00 H 95.5 R | | Gojabai Baban Waghmare | 818231 | 12-08-2008 | 125000 | HDFC , Thane |
| 427 | 06 H 1 R | 01 H 50.25 R | | Shamrao Baban Waghmare | 818232 | 12-08-2008 | 400000 | HDFC , Thane |
| | | | | Asha Shamrao Waghmare | 818233 | 12-08-2008 | 400000 | HDFC , Thane |
| | | | | Yogesh Shamrao Waghmare | 818234 | 12-08-2008 | 100000 | HDFC , Thane |
| | | | | Swati Yogesh Waghmare | 818235 | 12-08-2008 | 50000 | HDFC , Thane |
| | | | | Shailesh Shamrao Waghmare | 818236 | 12-08-2008 | 100000 | HDFC , Thane |
| | | | | Vidya Shailesh Waghmare | 818237 | 12-08-2008 | 50000 | HDFC , Thane |
| | | | | Nilesh Shamrao Waghmare | 818238 | 12-08-2008 | 100000 | HDFC , Thane |
| | | | | Vitthal Rajaram Rokde | 818240 | 12-08-2008 | 50000 | HDFC , Thane |
| | | | | Manubai Nararan Gangavane | 818241 | 12-08-2008 | 50000 | HDFC , Thane |
| | | | | Shalan Shantabai Sonkar | 818242 | 12-08-2008 | 50000 | HDFC , Thane |
| | | | | Urmila Nitin Gaikwad | 818239 | 12-08-2008 | 50000 | HDFC , Thane |
| | | | | Gojabai Baban Waghmare | 638239 | 26/11/2009 | 23512 | HDFC , Thane |
| | | | | Shamrao Baban Waghmare | 638243 | 26/11/2009 | 23513 | HDFC , Thane |
| | | | | Asha Shamrao Waghmare | 638241 | 26/11/2009 | 23512 | HDFC , Thane |
| | | | | Yogesh Shamrao Waghmare | 638244 | 26/11/2009 | 23513 | HDFC , Thane |
| | | | | Swati Yogesh Waghmare | 638245 | 26/11/2009 | 23512 | HDFC , Thane |
| | | | | Shailesh Shamrao Waghmare | 638247 | 26/11/2009 | 23513 | HDFC , Thane |
| | | | | Vidya Shailesh Waghmare | 638248 | 26/11/2009 | 23512 | HDFC , Thane |
| | | | | Nilesh Shamrao Waghmare | 638249 | 26/11/2009 | 23513 | HDFC , Thane |
| | | | | Gojabai Baban Waghmare | 234335 | 28/9/2010 | 200000 | IDBI Bank |
| | | | | Shamrao Baban Waghmare | 234336 | 28/9/2010 | 1000000 | IDBI Bank |
| | | | | Asha Shamrao Waghmare | 234337 | 28/9/2010 | 517370 | IDBI Bank |
| | | | | Yogesh Shamrao | 234338 | 28/9/2010 | 200000 | IDBI Bank |

A. N. N. 10/8/12

| | | | | | | | | | |
|--|--|--|--|---------------------------|--------|------------|--------|------------------|--|
| | | | | Waghmare | | | | | |
| | | | | Swati Yogesh Waghmare | 234339 | 28/9/2010 | 25000 | IDBI Bank | |
| | | | | Shilesh Shamrao Waghmare | 234340 | 28/9/2010 | 200000 | IDBI Bank | |
| | | | | Vidya Shailesh Waghmare | 234341 | 28/9/2010 | 25000 | IDBI Bank | |
| | | | | Nilesh Shamrao Waghmare | 234342 | 28/9/2010 | 200000 | IDBI Bank | |
| | | | | Vimal Rajaram Rokde | 234343 | 28/9/2010 | 100000 | IDBI Bank | |
| | | | | Shalan Shantaram Sonkar | 234344 | 28/9/2010 | 100000 | IDBI Bank | |
| | | | | Urmila Nitin Gaikwad | 234345 | 28/9/2010 | 25000 | IDBI Bank | |
| | | | | Shyamrao B Waghmare | 373945 | 28/9/2010 | 133125 | IDBI Bank | |
| | | | | Shyamrao B Waghmare | 465698 | 17/1/2011 | 200000 | Axis Bank B G | |
| | | | | S B Waghmare | 669969 | 19/4/2011 | 150000 | Axis Bank B G | |
| | | | | A S Waghmare | 669970 | 20/4/2011 | 300000 | Axis Bank B G | |
| | | | | Gojabai Baban Waghmare | 30382 | 30/7/2012 | 100000 | Axis Bank B G | |
| | | | | Gojabai Baban Waghmare | 30383 | 30/10/2012 | 100000 | Axis Bank B G | |
| | | | | Asha Shamrao Waghmare | 30384 | 30/7/2012 | 925000 | Axis Bank B G | |
| | | | | Asha Shamrao Waghmare | 30385 | 30/10/2012 | 925000 | Axis Bank B G | |
| | | | | Yogesh Shamrao Waghmare | 30386 | 30/7/2012 | 925000 | Axis Bank B G | |
| | | | | Yogesh Shamrao Waghmare | 30387 | 30/10/2012 | 925000 | Axis Bank B G | |
| | | | | Shailesh Shamrao Waghmare | 30388 | 30/7/2012 | 925000 | Axis Bank B G | |
| | | | | Shailesh Shamrao Waghmare | 30389 | 30/10/2012 | 925000 | Axis Bank B G | |
| | | | | Nilesh Shamrao Waghmare | 30390 | 30/7/2012 | 925000 | Axis Bank B G | |
| | | | | Nilesh Shamrao Waghmare | 30391 | 30/10/2012 | 925000 | Axis Bank B G | |
| | | | | Vimal Rajaram Rokde | 30392 | 30/7/2012 | 250000 | Axis Bank B G | |
| | | | | Vimal Rajaram Rokde | 30393 | 30/10/2012 | 250000 | Axis Bank B G | |
| | | | | Shalan Shantaram Sonkar | 30394 | 30/7/2012 | 250000 | Axis Bank B G | |
| | | | | Shalan Shantaram Sonkar | 30395 | 30/10/2012 | 250000 | Axis Bank B G | |
| | | | | Urmila Nitin Gaikwad | 30396 | 30/7/2012 | 100000 | Axis Bank B G | |
| | | | | Urmila Nitin Gaikwad | 30397 | 30/10/2012 | 100000 | Axis Bank B G | |
| | | | | Laxmi Narayan Gangavane | 30398 | 30/7/2012 | 750000 | Axis Bank B G | |
| | | | | Laxmi Narayan Gangavane | 30399 | 30/10/2012 | 750000 | Axis Bank B G | |
| | | | | Vimal Rajaram Rokde | 638250 | 26/11/2009 | 12500 | HDFC, Thane | |
| | | | | Manubai Nararan Gangavane | 638151 | 26/11/2009 | 12500 | HDFC, Thane | |
| | | | | Shalan Shantabai Sonkar | 638152 | 26/11/2009 | 12500 | HDFC, Thane | |

AMM
10/8/12

| | | | | | | | | |
|--|--|--|--|-------------------------------|--------|------------|--------|------------------|
| | | | | Urmila Nitin Gaikwad | 638153 | 26/11/2009 | 12500 | HDFC , Thane |
| | | | | Laxmibai Sambhaji Waghmare | 901374 | 22/10/2011 | 50000 | Axis Bank B G |
| | | | | Ramdas Sambhaji Waghmare | 901375 | 22/10/2011 | 200000 | Axis Bank B G |
| | | | | Gautam Sambhaji Waghmare | 901376 | 22/10/2011 | 50000 | Axis Bank B G |
| | | | | Raju S Waghmare | 901377 | 22/10/2011 | 50000 | Axis Bank B G |
| | | | | Ramdas Sambhaji Waghmare | 901393 | 17/3/2012 | 900000 | Axis Bank B G |
| | | | | Gautam Sambhaji Waghmare | 901394 | 17/3/2012 | 900000 | Axis Bank B G |
| | | | | Raju S Waghmare | 901395 | 17/3/2012 | 900000 | Axis Bank B G |
| | | | | Gautam Sambhaji Waghmare | 18824 | 29/5/2012 | 100000 | Axis Bank B G |
| | | | | Laxmibai Sambhaji Waghmare | 30351 | 30/7/2012 | 500000 | Axis Bank B G |
| | | | | Laxmibai Sambhaji Waghmare | 30352 | 30/7/2012 | 500000 | Axis Bank B G |
| | | | | Ramdas Sambhaji Waghmare | 30353 | 30/7/2012 | 700000 | Axis Bank B G |
| | | | | Virag Ramdas Waghmare | 30354 | 30/7/2012 | 100000 | Axis Bank B G |
| | | | | Dattatray Ramdas Waghmare | 30355 | 30/7/2012 | 100000 | Axis Bank B G |
| | | | | Shakuntala Ramdas Waghmare | 30356 | 30/7/2012 | 100000 | Axis Bank B G |
| | | | | Gautam Sambhaji Waghmare | 30357 | 30/7/2012 | 750000 | Axis Bank B G |
| | | | | Gautam Sambhaji Waghmare | 30358 | 30/7/2012 | 750000 | Axis Bank B G |
| | | | | Savita Gautam Waghmare | 30359 | 30/7/2012 | 400000 | Axis Bank B G |
| | | | | Savita Gautam Waghmare | 30360 | 30/7/2012 | 400000 | Axis Bank B G |
| | | | | Sunil Gautam Waghmare | 30361 | 30/7/2012 | 100000 | Axis Bank B G |
| | | | | Anil Gautam Waghmare | 30362 | 30/7/2012 | 100000 | Axis Bank B G |
| | | | | Rajendra Sambhaji Waghmare | 30363 | 30/7/2012 | 700000 | Axis Bank B G |
| | | | | Anita Rajendra Waghmare | 30364 | 30/7/2012 | 300000 | Axis Bank B G |

9. As regards reference in para 5 of my order dated 23/02/2018 regarding properties mentioned against various MR Nos by the CBI having been purchased by Apoorva Promoters not on its own behalf but by M/s Greenfield Estates through the objector herein, the said observation has to be recalled in the light of various bank transactions reproduced above, read with the sale deeds executed after due sanction of the Collector and the consequent mutations as detailed hereunder :-

R.N.M.
10/8/18

| Gat No. | Total Area | Purchased Area | Document No. | Document Date | Name of the Seller | Name of the Purchaser | Collector Order No. | Collector Order Date | Mutation Entry No. |
|---------|-------------------|-------------------|--------------|---------------|---------------------------------------|-----------------------|---------------------|----------------------|--------------------|
| 400 | 04 H 02 Are | 00 H 50.25 Are | 1931/2016 | 17/2/2016 | Indrajeet Shankar Waghmare and others | Pramod Babulal Shah | PTK/SR/359/11 | 21/6/2012 | 12118 |
| 420 | 01 H 96 Are | 00 H 49 Are | 1931/2016 | 17/2/2016 | Indrajeet Shankar Waghmare and others | Pramod Babulal Shah | PTK/SR/359/11 | 21/6/2012 | 12118 |

| Gat No. | Total Area | Purchased Area | Document No. | Document Date | Name of the Seller | Name of the Purchaser | Collector Order No. | Collector Order Date | Mutation Entry No. |
|---------|-------------------|-------------------|--------------|---------------|-----------------------------------|-----------------------|---------------------|----------------------|--------------------|
| 414 | 03 H 20 Are | 01 H 60 Are | 6663/2012 | 30/11/2012 | Gojabai Baban Waghmare and others | Kishor Nandlal Shah | PTK/SR/364/11 | 22/6/2012 | 9482 |
| 417 | 01 H 90 Are | 00 H 95.5 Are | 6663/2012 | 30/11/2012 | Gojabai Baban Waghmare and others | Kishor Nandlal Shah | PTK/SR/364/11 | 22/6/2012 | 9482 |
| 427 | 06 H 01 Are | 01 H 50.25 Are | 6663/2012 | 30/11/2012 | Gojabai Baban Waghmare and others | Kishor Nandlal Shah | PTK/SR/364/11 | 22/6/2012 | 9482 |

10. Reference may at this stage be made to Section 36 A of Maharashtra Land Revenue Code (Maharashtra Act No.XLI) of 1966 (herein after referred to as the 'code') relevant part whereof is reproduced verbatim hereunder for facility of ready reference

:-

(1) Notwithstanding anything contained in sub-section (1) section 36, no occupancy of a Tribal shall, after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974, be transferred in favour of any non-Tribal by way of sale (including sales in execution of a decree of a Civil Court or an award or order of any Tribunal or authority), gift, exchange, mortgage, lease or otherwise, except on the application of such non-Tribal and except with the previous sanction-

(a) in the case of a lease or mortgage for a period not exceeding 5 years, of the Collector; and

(b) in all other cases, of the Collector with the previous approval of the State Government

11. With reference to the above quoted section 36A of the 'code', learned counsel has pointed out that section 330A of the 'code' empowers the Revenue Officers

R. V. S. S.
10/1/11

mentioned in the notification issued under the 'code' to exercise the powers of the State Government which were so exercised by the Commissioner while issuing permission while granting permission vide various letters as detailed in column numbers 8 and 9 of para 7 above.

12. In the light of the facts and circumstances enumerated above, the objector above named in view of the registered sale deeds of the above described lands executed against due sale consideration by the owners (who had earlier purchased the same from the farmers after requisite sanction of the concerned authorities as per the provisions of the 'Code') does have a valid ground to resist the inclusion of the land in question in the list put up for auction for recovery of amount in respect of properties belonging to PACL or its associates/subsidiaries. Consequently, the objection petition in hand is liable to be and is hereby accepted in toto.

Date : 10/08/2018


R. S. Virk
Distt. Judge (Retd.)

Note:

Two copies of this order are being signed simultaneously, one of which shall be retained on this file whereas the other one, also duly signed, shall be delivered to the objector as and when requested /applied for. No certified copies are being issued by this office. However, the orders passed by me can be downloaded from official website of SEBI at www.sebi.gov.in/PACL.html.

Date : 10/08/2018


R. S. Virk
Distt. Judge (Retd.)