

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. 302 (MR NO. 24961 to 24964 - 16)

Objector: Waterfield Estates Pvt. Ltd.

Present : Shri Subramonium Prasad, Sr. Advocate
with Shri. Varun Singh Advocate, for the objector.

Order :

1. Vide order dated 02/02/2016, passed in civil appeal no. 13301/2015 bearing the title Subarata Bhattacharaya Versus Securities & Exchange Board Of India, the Hon'ble supreme court had directed constitution of a committee by SEBI to be headed by Hon'ble Mr. Justice R.M. Lodha. former Chief Justice of India as its Chairman for disposing of the land purchased by PACL so that the sale proceeds recovered there from can be paid to the investors who have invested their funds in the company for purchase of the land. The said committee was asked to collect relevant record including title sale deeds from the CBI (Central Bureau of Investigation) if it is in possession of any documents. The committee on its part has put up various properties including the property forming the subject matter of the present objection petition for auction sale on its website www.auctionpacl.com.
2. The above named company viz Waterfield Estates Pvt. Ltd. is seeking release from attachment, the properties statedly purchased by it vide registered sale deed nos. 8060/2014, 8061/2014 and 8062/2014, all three dated 03/12/2014, pertaining to lands situated in village Gholumajra, NAC Lalru, Derabassi, SAS Nagar, Punjab as executed in its favour by
 - i) M/S Stone Water Properties Pvt. Ltd.,
 - ii) M/S Inspire Infra Estates Pvt. Ltd. and,
 - iii) M/S Castle Infraestates Pvt. Ltd.all through Mainpal Singh Rana s/o Sh. Rajinder Singh, resident of Bagpat (U.P.) purportedly acting in pursuance of resolution dated 21/08/2013 for Rs.2,24,44,000 /- (Two Crores, twenty four lakhs and forty four thousand); Rs. 1,09,12,000 /- (One Crores, Nine lakhs and twelve thousand) and Rs. 3,51,85,000/- (Three crores, fifty one lakhs and eighty five thousand) respectively. Copies of the resolution dated 21/08/2013 statedly passed by the above named vendor

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companies in favour of Mainpal Singh Rana above named have however not been produced on record.

3. All the aforesaid amounts of the three sale transactions detailed above were acknowledged in the aforesaid sale deeds as having been statedly received **“at home” and “prior to execution of the said sale deeds”**. However, the mode of payments by the purchaser - whether by way of cheque/draft/RTGS etc is not specified in either of these three sale deeds and nor have the names/particulars of the previous owners (prior to the above named vendor companies) been specified. No particulars of any bank account wherefrom the aforementioned amounts of Rs. 2,24,44,000 /- (Two Crores, twenty four lakhs and forty four thousand); Rs. 1,09,12,000 /- (One Crores, Nine lakhs and twelve thousand) and Rs. 3,51,85,000/- (Three crores, fifty one lakhs and eighty five thousand) respectively might have been withdrawn by the vendee viz the objector herein namely Waterfield Estates Pvt Ltd been furnished.
4. It needs to be highlighted that the objector company has only two shareholders namely Birender Kumar Swain who as a promoter director has only one share whereas Mr. Prateek Kumar holds 9999 shares out of total 10000 equity shares of Rs. 10 each of this company and which Prateek Kumar as per details available on <https://www.zaubacorp.com> is a director in as many as 17 companies specified therein which is indicative of the fact that he is well versed with corporate affairs and would have been aware of the necessity of maintaining accounts for submission to various authorities such as income tax department etc., and therefore non furnishing of requisite details such as the accounts nos, the name of bank and date of withdrawal of various sums therefrom for payment to the above named vendor companies is a strong circumstance indicating that the said purported transactions were bogus transactions. It may also be borne in mind here that the objector company has a paid up share capital of Rs. One lakh only and therefore it was incumbent upon it to show that it possessed a total amount of Rs. 6,85,41,000/- (six crores, eighty five lakhs and forty one thousand) in cash available with it, either on its own by way of subsequent earnings / accumulation or by way of borrowings etc., but no such information has been brought on record by the objector company. No sale consideration whatsoever within the meaning of section 54 of the Transfer of Property Act, 1882 can thus be considered to have exchanged hands and mere payment of registration charges regarding purported sale consideration totalling Rs. 6,85,41,000/- (six crores, eighty five lakhs and forty one thousand) is also thus apparently a sham transaction.
5. a) It also needs to be highlighted here that as per details in **MR Nos. 24961-64 / 16** prepared by the CBI, these properties were earlier owned by M/S Omaxe Pvt Ltd which company had sold the same vide sale deed dated 27/04/2011 in favour of M/S Stone Water Properties Pvt. Ltd; vide sale deed dated 18/03/2011 in favour of M/S Inspire Infra

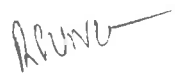
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Estates Pvt. Ltd and vide sale deed dated 03/02/2012 M/S Inspire Infra Estates Pvt. Ltd
M/S Castle Infraestates Pvt. Ltd.

b) The total sale consideration of these three sale deeds executed by M/S Omaxe Pvt Ltd in favour of said three objector companies was Rs. 25,46,50,000/- (twenty five crores, forty six lakhs and fifty thousand) whereas the three sale deeds in question, all dated 03/12/2014 executed by the above named three companies in favour of the objector herein despite being later in time, are valued at Rs. Rs. 6,85,41,000/- (six crores, eighty five lakhs and forty one thousand).

6. Moreover, the only revenue document produced on record are copies of jamabandi for the year 2012 – 13 pertaining to the lands detailed in the three above described sale deeds. There is no other document available on the file which may show that Mainpal Singh Rana above named was genuinely authorised by the above named companies to execute the purported sale deeds in question on their behalf. It may be added here that as per information available on the internet, Mainpal Singh Rana above named is an additional director in as many as nine companies since February 2015 onwards meaning thereby that he is well versed with documentation of deeds pertaining to properties and therefore non production of attorney deed whereby Mainpal Singh Rana was statedly authorised to execute the sale deeds pertaining to the property in question cannot be viewed lightly.
7. In view of the foregoing discussion, the objection petition in hand is liable to be and is hereby dismissed.

Date: 05/02/2018


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