

**Before Shri R.S. Virk, District Judge (Retd.)
In the matter of PACL Ltd.**

File no. 668

Objectors : Laxman Singh and six others

Present : (i) Shri Dinesh Khanduri, Advocate, Dehradun
(Enrolment No. UP-7721/2000 and Utrakhand-4062/2004)
with Virender Singh Negi, Advocate, Dehradun
(Enrolment No. UK-274/2012)
(ii) None for CBI.
(iii) Shri Satyam Bhatia, Advocate, PACL
(Enrolment No. D/1855/2016)

Order :

1. (a) It may be noticed at the outset that 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.

(b) 2nd Status Report (Volume-I) of the Justice (Retd.) R.M. Lodha Committee (in the matter of PACL Ltd) submitted before the Hon'ble Supreme Court, had at page 77 thereof, proposed as under :-

“It would be in the interest of the investors of the Company, that all objections based on documents purportedly executed after 02-02-2016 be scrutinized and then heard and disposed of by a retired Judicial Officer(s) assisted by requisite number of Advocates, appointed by the Committee.”

(c) The aforesaid proposal of committee was accepted by the Hon'ble Supreme Court.

2. (a) Subsequent thereto, I have been appointed by the said committee to hear objections/representations against attachments of various properties in the matter of PACL Ltd which appointment has been duly notified in SEBI Press release no. 66 dated 08/12/2017.

(b) My said appointment is also duly mentioned in the order dated 15/11/2017 (to be read with orders dated 13/04/2018, 02/07/2018, 07/12/2018 and 08/07/2019) of the Hon'ble Supreme Court in civil appeal no. 13301/2015 Subrata Bhattacharya Vs SEBI.

3. The objectors above named seek delisting, (from the list of properties shown attached on www.auctionpacl.com) the various properties detailed in the charts below, in respect of each individual objectors, specifying the area purchased, the amount of sale consideration and the particulars of the sale deeds :-

(a) Land purchased by Shri Laxman Singh

Khasra No.	Area (in Hect.)	Seller	Buyer	Sale Consideration (inRs.)	Stamp Duty & Registration Fee	Sale deed No. & Date	Mode of Payment	Mutation order and date.
352 351	0.0740 0.0800	Gurpreet Singh S/o Nachhatar Singh	Laxman Singh S/o Madan Singh	36,96,000/-	1,85,000/- 10,370/-	1476 25.03.2013	Cheque & Cash	6626 04.05.2013
	0.1540							

Note :-

Gurpreet Singh above named had earlier purchased the land detailed in column 2 of the chart (a) above from Shri Radhey Shyam and four others vide sale deed no. 6221 dated 30/08/2005.

(b) Land purchased by Smt. Leela Pokhriyal

Khasra No.	Area (in Sqmt.)	Seller	Buyer	Sale Consideration (inR.s.)	Stamp Duty & Registration Fee	Sale deed No. & Date	Mutation order and date.
351	167.25	1.Sh.Manish Chhetri S/o Rajendra Bahadur Chhetri 2.Smt. Shivani Chhetri D/o Sh. Navraj Singh Chetri	Smt. Leela Pokhriyal w/o Sh. Manoj Pokhriyal D/o Sh. Budhi Ballabh Sharma	11,55,000/-	43,500/- 10,410/-	4775 25.05.2015	5073 04.07.2015
	292.66						

Note:-

Shri Manish Chhetri and Smt. Shivani Chhetri above named had earlier purchased the land detailed in column 2 of the chart (b) above from Laxman Singh vide sale deed dated 24/10/2013.

A. Singh

(c) Land purchased by Shri Bijendra Singh and Shri Himmat Singh

Khasra No.	Area (in Hect.)	Seller	Buyer	Sale Consideration (inRs.)	Stamp Duty & Registration Fee	Sale deed No. & Date	Mode of Payment	Mutation order and date.
343	0.1980	Gurpreet Singh S/o Nachhatar Singh	(1) Bijendra Singh S/o Late Balveer Singh (2) Himmat Singh Rana S/o Kalam Singh	47,52,000/-	2,37,600/- 10570/-	1477 25.03.2013	Cash	6627 03.05.2013
	0.1980							

(d) Land purchased by Smt. Rakhi

Khasra No.	Area (in Sqmt.)	Seller	Buyer	Sale Consideration (inRs.)	Stamp Duty & Registration Fee	Sale deed No. & Date	Mutation order and date.
343	62.08	(1) Bijendra Singh S/o Late Balveer Singh (2) Himmat Singh Rana S/o Kalam Singh	Smt. Rakhi W/o Sh. Vijaprakash	2,24,000/-	8,400/- 4,670/-	5857 13.12.2013	2232 20.02.2014
	62.08						

Note:-

Shri Bijendra Singh and Himmat Singh above named had earlier purchased the land detailed in column 2 of the chart (d) above from Gurpreet Singh above named vide sale deed dated 25/03/2013.

(e) Land purchased by Shri Prem Singh

Khasra No.	Area (in Hect.)	Seller	Buyer	Sale Consideration (inRs.)	Stamp Duty & Registration Fee	Sale deed No. & Date	Mode of Payment	Mutation order and date.
353 341 342kha	0.1090 0.0185 0.0530	Gurpreet Singh S/o Nachhatar Singh	Prem Singh S/o Devi Singh	43,32,000/-	2,16,600/- 10,510/-	1478 25.03.2013	Cheque	6628 04.05.2013
	0.1805							

(f) Land purchased by Smt. Kalpeshwari Navani

Khasra No.	Area (in Sqmt.)	Seller	Buyer	Sale Consideration (inRs.)	Stamp Duty & Registration Fee	Sale deed No. & Date	Mutation order and date.
353	391.65	Prem Singh S/o Devi Singh	Smt.Kalpeshwari Navani W/o L. N Navani	15,51,000/-	58,200/- 10,270/-	4399 16.09.2013	6800 17.06.2013
	391.65						

Note:-

Shri Prem Singh above named had earlier purchased the land detailed in column 2 of the chart (f) above from Gurpreet Singh above named vide sale deed dated 25/03/2013.

4. The above named objectors contend that in view of the provisions of Section 41 of the TP Act, read with the Registration Act, they are 'bonafide purchasers' of the above described land on the basis of the sale deeds adverted to in the charts above. It is also contended that the sale deeds adverted to in paras 3 (a),(b), (c), (d), (e) & (f) are all prior to the restraint order of the Hon'ble Supreme Court dated 02/02/2016 and except for the sale deed referred to in para 3(b) are also prior to the restraint order of SEBI dated 22/08/2014.
5. Upon notice having been sent to CBI through email at its given email address sp1bsfcdel@cbi.gov.in, it submitted its reply wherein it did not set up any counter plea and simply stated that this committee has the sole jurisdiction to take necessary action in the matter.
6. Upon notice having been sent to PACL through email at its given email address amarjit.bedi@gmail.com, it submitted its reply wherein it is mentioned that the land in question situated at Aamwala Tarla was purchased by it in the name of one of its associates named Gurpreet Singh who had been given funds by it to purchase various parcels of land including the land in question. In this context, PACL has appended to its reply some extracts of its ledger accounts pertaining to Gurpreet Singh as Annexure-2 which reveal in the entries dated 31/03/2007 'debit' to the tune of Rs.4,16,000/- as sale consideration, Rs.41,600/- incurred as stamp duty thereon besides Rs.5130/- as registration charges; as also Rs.3,24,000/- as sale consideration, Rs.32,400/- incurred as stamp duty thereon besides Rs.5090/- as registration charges; and Rs.3,80,000/- as sale consideration, Rs.38,000/- incurred as stamp duty thereon besides Rs.5130/- as registration charges; in respect of the various sale transactions detailed above and added that it has not received any funds from Gurpreet Singh

regarding sale of the land in question by him in which context it had even lodged a complaint, copy whereof as Annexure-3 and is appended to the reply. It may be added here that the above three entries, all dated 31/03/2007 were rectified on 03/12/2008 in respect of the said transactions by showing the same to be 'credited' instead of 'debited' as shown in the entries dated 31/03/2007 and on the basis of which rectified entries, learned counsel for the objectors has argued that the earlier entries dated 31/03/2007 are no longer valid and cannot be taken into consideration.

7. I have heard the learned counsel for the objector and the counsel for PACL and have gone through the documents produced on the record of this file.

8. Before proceeding to advert to the merits or otherwise of the objection petition in hand, it may mentioned here that the Bank Securities & Fraud Cell Branch of the CBI had, upon conversion of Preliminary Enquiry No. PE/BD1/2013/E/0003, registered an FIR vide No. RC-BDA/2014/E/0004/CBI/BS&FC/ND on 19/02/2014 under sections 120-B r/w 420 IPC in pursuance of order of the Hon'ble Supreme Court of India dated 12/03/2013 passed in Civil Appeal No. 6572 of 2004 in the matter of M/s PGF Ltd Versus Union of India and others against :-

- (i) M/s PGF Ltd through its Managing Director namely
 - (a) Shri Nirmal Singh Bhangoo,
 - (b) And directors namely S/Shri Harchand Singh, Chander Bhushan Dhillon and Prem Seth
- (ii) As well as against M/s PACL Ltd
 - (a) through its Managing Director namely Shri Sukhdev Singh, and
 - (b) Whole time directors namely S/Shri Gurmeet Singh and Subrata Bhattacharya & Additional director namely Shri Gurjant Singh Gill and some unknown others.

9. Reference at this stage becomes necessary to the brief history behind initiation of action against PGF Ltd & PACL Ltd by SEBI.

PGF Ltd

- i. Pearls Green Forests Ltd was incorporated on 19/01/1983 at Chandigarh and is called PGF Ltd w.e.f. 1997. At the time of its incorporation, Nirmal Singh Bhangoo was its Managing Director.
- ii. SEBI had issued a public notice dated 18/12/1997, besides specific letter dated 20/04/1998, to PGF Ltd whereby it was called upon to furnish various details as regards collective investment schemes.
- iii. In the backdrop thereof, SEBI passed an order dated 20/02/2002 under section 11B of SEBI Act against PGF Ltd which was challenged by PGF by filing CWP No.4620/2002 in the Punjab & Haryana High Court.

- iv. In pursuance of directions of the Punjab & Haryana High Court in the said writ, SEBI, after complying with the High Court order dated 29/04/2002, issued an order dated 06/12/2002 prohibiting PGF from collecting any money from investors and directed it to refund the money already collected by PGF.
- v. PGF Ltd challenged the aforesaid order dated 06/12/2002 by filing CWP No.188 of 2003 before a division bench of the Punjab & Haryana High Court which was dismissed vide order dated 26/07/2004.
- vi. Aggrieved against the said order dated 26/07/2004, PGF Ltd filed civil appeal no. 6572 of 2004 bearing the title PGF Ltd Versus Union of India (reported in 2015 13 SCC 50) which was dismissed by the Hon'ble Supreme Court vide order dated 12/03/2013, with costs to the tune of Rupees Fifty lakhs. It was further observed in para 56 thereof as under :-

Apart from imposing cost for having wasted the precious time of the High Court as well as of this Court, in order to ensure that none of the investors/customers of the PGF Limited, who have parted with their valuable savings and earnings by falling a prey to the promise extended to them are deprived of their investments, we feel it just and necessary to direct for proper investigation both by the Central Bureau of Investigation as well as the Department of Income Tax and in the event of any malpractice indulged in by the PGF Limited, to launch appropriate proceedings, both Civil, Criminal and other actions against the PGF Limited, as well as, all those who were responsible for having indulged in such malpractice. We also direct the second respondent to proceed with its investigation/enquiry and inspection of the PGF Limited as well as all its other officers and other premises and after due enquiry to be carried out in accordance with law, take necessary steps for ensuring the refund of the monies collected by the PGF Limited in connection with the sale and development of land to its various customers.

- vii. Subsequently, the Hon'ble Supreme Court vide order dated 22/01/2016 appointed a committee headed by Hon'ble Mr. Justice Vikramjeet Sen (Retd) for realisation of the monies by way of sale of the immovable properties, as well as liquidation of fixed deposit receipts, for disbursement of monies collected by PGF to its investors.

PACL LTD

- i. PACL Ltd was incorporated on 13/02/1996 at Jaipur (Rajasthan) at which time Nirmal Singh Bhangoo was its founding director.

ii. 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.

10. (a) It may be mentioned here that it was averred by the CBI before me during hearing of some other objection/file nos. 367/2 and 367/3 that its investigation in the above referred criminal case registered by it under orders of the Hon'ble Supreme Court had revealed that the conspiracy is having National and International ramifications in as much as directors of M/s PGF and M/s PACL in pursuance of criminal conspiracy with each other and others had illegally collected Rs.45,184 Crores from 5.46 Crore gullible investors and had diverted the wrongful gain/fund through sham land developments (11,000 Crore approximately). Further, in pursuance of said conspiracy, thousands of crores were statedly paid illegally to the agents, and PACL had also diverted those funds through sham transactions at all India level, and also at International level to Dubai, Australia etc.

(b) It was also averred by the CBI before me in the said objection petition nos. 367/2 and 367/3 that it had transpired that M/s PACL Ltd had purchased land/properties in the name of itself, its associate companies, its employees and in the name of other individuals, purportedly utilizing the deposits of investors. In order to safeguard the interest of such investors, CBI had seized/secured title deeds/documents relating to such properties acquired by M/s PACL Ltd and its associates. All such properties have been given specific MR (Malkhana Register) numbers.

(c) It was also claimed inter-alia therein that since the various properties seem to have been acquired from funds belonging to the general public under various schemes of M/s PACL Ltd, in order to verify the genuineness of these property details, CBI, letters under the signature of Joint Director, BS&FZ were sent to the Revenue Heads (Secretary – Revenue) of 6 states namely Delhi, Haryana, Punjab, MP, Rajasthan & Maharashtra, along with the details of property documents seized by CBI, with a request for the issuance of necessary directions to the Land Revenue Offices and Sub-Registrar Offices under them that a prior NOC from competent Court/CBI may kindly be obtained before allowing any further alienation/transfer of such lands in future.

11. (a) In the backdrop of circumstances enumerated above, reference becomes necessary at this stage to mention here that vide order dated 22/08/2014, Shri Prashant Saran, Whole Time Member, SEBI in the matter of PACL Ltd had commented adversely upon the conduct of PACL wherein he had (in Table H at page 76) of his said order detailed the chart of "advance payments" made by PACL statedly as "commission" to its agents/field associates which is as under :-

Financial year	Amount Paid
1996-1997	1,12,23,818.86
1997-1998	6,00,46,682.88
1998-1999	6,51,90,054.53
1999-2000	6,18,05,900.28
2000-2001	10,31,33,043.45
2001-2002	19,48,00,742.68
2002-2003	31,24,87,763.87
2003-2004	45,13,59,663.53
2004-2005	107,33,42,001.05
2005-2006	364,14,00,910.72
2006-2007	657,75,16,858.12
2007-2008	950,00,04,002.94
2008-2009	1118,22,17,766.22
2009-2010	1285,21,04,794.64
2010-2011	1731,74,64,064.83
2011-2012	1553,39,30,463.93

Shri Prashant Saran has observed at page 76 of his aforesaid order dated 22/08/2014 qua the aforesaid amounts of commission paid as under :-

I note that in simple real estate transaction, the commission is generally fixed on the cost of the land. However, in the instant case the payment of commission to the agents does not seem to be made on the basis of cost alone. Rather, the payment of 19.83% of the total customer advances towards pre-paid commission suggest that the same was calculated on the basis of total amounts mobilized including the development charges also. However, it cannot be understood as to what role an agent can have in respect of development of land for which commission has been paid.

(b) The above detailed whopping amounts of commission, paid as per the own admission of PACL, before above named Shri Prashant Saran, WTM, SEBI from the years 1996-97 to 2011-12 need to be perused in the light of the fact that PACL had **5,85,40,150 number of customers** from whom it had collected **49,100 crores** as so mentioned at page 72 of the said order dated 22/08/2014. Although the number of agents/field associates who must have been mobilized by PACL for collecting money

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of its behalf from the aforesaid **5,85,40,150 number of customers**, is not known, yet it can easily be inferred that the number of agents/field associates must also be running into several lakhs.

12. Reverting to the contents of the objection petition in hand, it may be noticed that the learned counsel for the objectors has argued inter-alia that the land of objector Leela Pokhriyal has been mortgaged by her with State Bank of Patiala, Dehra Dun, for an amount of Rs.21,00,000/- on 30/03/2016 as so recorded in column no. 13 of Khatauni (Annexure A-3(b) produced on record during the course of arguments. It is also contended that the sale consideration amounts detailed above as shown advanced by PACL to Gurpreet Singh on 31/03/2007 (as rectified on 03/12/008) are subsequent to the sale deed no. 6221 dated 30/08/2005 executed by the previous owner named Radhey Shyam and five others in favour of the above named Gurpreet Singh cannot therefore be considered to be of any value. It is claimed that the objectors came to know of the attachment of the land only after various persons interested in participating in the purchase of PACL properties started visiting the land in question repeatedly.
13. In the light of arguments of the learned counsel for the objectors, reference becomes necessary at this stage to advert to the order of the Hon'ble Supreme Court dated 02/02/2016, passed in civil appeal no. 13301/2015 bearing the title Subarata Bhattacharaya Versus Securities & Exchange Board Of India wherein it was observed inter-alia as under :-

Upon hearing the learned counsel and looking at the peculiar facts of the case, in the interest of the investors, we think it proper to pass this order with regard to interim arrangement, without going into the legality of the impugned judgment and without prejudice to the submission which might be made by the counsel at the time of further hearing of these matters and we direct that the appellant-Company shall not collect any further amount from any of the investors.

The SEBI shall constitute a committee for disposing of the land purchased by the company so that the sale proceeds can be paid to the investors, who have invested their funds in the company for purchase of the land.

14. Keeping in view the magnitude of fraud played by PACL upon **5,85,40,150 number of customers** by illegal collection of contributions from them in violation of SEBI Act, and investment of such colossal amounts in purchase of properties by PACL in


its own name, or in the names of its associates/subsidiaries/nominees etc., the arguments put forth on behalf of the objectors herein that the contention of PACL Ltd regarding Gurpreet Singh or his subsequent transferees namely Laxman Singh; Bijender Singh and Himmat Singh; and Prem Singh (under whom the objectors herein claim title to the land in question) having been advanced funds by it as its nominee to purchase the land in question cannot be brushed aside, moreso when there is no record of payment of the amounts in question having come out of personal account/savings of Gurpreet Singh and not as a nominee of PACL which has on its part produced ledger accounts indicating the under mentioned amounts of payment to Gurpreet Singh in respect of three separate parcels of land in question situated at Aamwala Tarla (Dehra Dun) :-

<u>S.No.</u>	<u>Area purchased</u>	<u>Amounts paid by PACL to Gurpreet Singh</u>
(i)	0.48926 acres	Rs.4,16,000/- as sale consideration Rs. 41,600/- as stamp charges Rs. 5,130/- as registration fee
(ii)	0.38054 acres	Rs.3,24,000/- as sale consideration Rs. 32,400/- as stamp charges Rs. 5,090/- as registration fee
(iii)	0.44602 acres	Rs.3,80,000/- as sale consideration Rs. 38,000/- as stamp charges Rs. 5,130/- as registration fee

15. The learned counsel for the objectors has argued that the above referred entries dated 31/03/2007 were rectified by PACL itself on 03/12/2008 in the copy of the ledger account statedly pertaining to Gurpreet Singh above named meaning thereby that the authenticity of the entries dated 31/03/2007 stands negated but I find myself unable to accept this argument because the rectification dated 03/12/2008 shows entrustment of the amounts detailed therein by PACL Ltd to Gurpreet Singh who as mentioned above is not shown or proved to have had any independent source of income, apart as a nominee of PACL, to incur the aforesaid amount of expenses in purchase of the land in question and as a necessary consequence, he cannot be considered to have passed on valid title in favour of the objector above named by executing sale deeds in their favour and detailed in para 3 of this order above. Even the advancement of the aforesaid amounts by PACL Ltd to Gurpreet Singh above named does not vest any title to the lands in question in as much as even PACL Ltd is not shown to have had any income of its own other than that collected deviously from **5,85,40,150 number**

of its customers as referred to in para 11 of this order above vide relied upon the order dated 22/08/2014, passed by Shri Prashant Saran, Whole Time Member, SEBI in the matter of PACL Ltd. Resultantly, the objectors herein cannot be considered to be “bonafide purchasers” of the land in question on the basis of the said sale deeds and consequently the objection petition in hand is held to be devoid of any merit and is thus hereby dismissed.


Date : 05/09/2019


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

Note:

Three copies of this order are being signed simultaneously, one of which shall be retained on this file whereas the other two, also duly signed, shall be delivered to the objector and PACL Ltd 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 : 05/09/2019


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