

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. 458

MR NO. 2844-14, 2845-14

Objectors : Sohan Lal

Present : None

Order :

1. 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.
2. By way of the petition in hand filed through one Nitin Arora as his special attorney but signed by his advocate Praneet Dass, the objector above named seeks delisting of land measuring 113.11 Bighas comprised in Khasra Nos. 132, 137, 139, 144 and 145 situated at village Sodo ki Dhani in village Tilwada, Tehsil Pachpadra, District Barmer, Rajasthan with the averments that he is a bonafide purchaser for value of the land comprised in Khasra Nos. 132, 137, 139 and 145 which was earlier owned by Jagdish, Shri Krishan Lal, sons and Smt Dhapu wife, of Narsingha whereas land comprised in Khasra No. 144 was earlier owned by Khushal Singh and twelve others from whom all his predecessor named Sanjay Kumar, a government employee (posted as Tehsildar) had purchased the same, vide two separately registered sale deeds, both dated 03/11/2006, as detailed here under:-

S.No.	Date of Sale Deeds	Original Owner/Seller	Purchaser/Predecessor- in-title i.e. Sanjay Kumar of objector herein
1.	03/11/2006	Jagdish S/o Narsingha	Sanjay Kumar S/o Shri Balbir Singh

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2.	03/11/2006	Kishanlal Narsinga S/o	Sanjay Kumar S/o Shri Balbir Singh
3.	03/11/2006	Dhapu Narsinga W/o	Sanjay Kumar S/o Shri Balbir Singh
4.	03/11/2006	Khushal Singh S/o Guman Singh	Sanjay Kumar S/o Shri Balbir Singh
5.	03/11/2006	Gordhan Singh S/o Guman Singh	Sanjay Kumar S/o Shri Balbir Singh
6.	03/11/2006	Jog Singh S/o Soan Singh	Sanjay Kumar S/o Shri Balbir Singh
7.	03/11/2006	Guman Singh S/o Rawat Singh	Sanjay Kumar S/o Shri Balbir Singh
8.	03/11/2006	Mangal Singh S/o Nathu Singh	Sanjay Kumar S/o Shri Balbir Singh
9.	03/11/2006	Kheem Singh S/o Nathu Singh	Sanjay Kumar S/o Shri Balbir Singh
10.	03/11/2006	Mangu Singh S/o Parvat Singh	Sanjay Kumar S/o Shri Balbir Singh
11.	03/11/2006	Man Singh S/o Jai Singh	Sanjay Kumar S/o Shri Balbir Singh
12.	03/11/2006	Ridmal Singh S/o Jai Singh	Sanjay Kumar S/o Shri Balbir Singh
13.	03/11/2006	Bheem Singh S/o Jai Singh	Sanjay Kumar S/o Shri Balbir Singh
14.	03/11/2006	Ishwar Singh S/o Jai Singh	Sanjay Kumar S/o Shri Balbir Singh
15.	03/11/2006	Smt Indra Kanwar W/o Jai Singh	Sanjay Kumar S/o Shri Balbir Singh

3. It is averred inter-alia that subsequent to the registration of sale deeds detailed above, the objector herein had purchased the land forming the subjected matter of sale deeds above described from the above named Sanjay Kumar for an amount of Rs. 8,00,000/- (Eight lakhs) vide registered sale deed dated 24/06/2013 and is in possession thereof ever since and further that mutation of the said purchase has also been entered in the revenue record in his favour. It is asserted that PACL India Ltd has no right, title or interest, directly or indirectly, in the aforesaid land which is therefore liable to be removed from the list of properties attached by the committee.

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4. (a) The objector herein has produced on record photo-stat copies of sale deed no. 3431 dated 03/11/2006 executed in respect of total land measuring 57 Bigha 13 Biswa comprised in Khasra Nos. 132(7 Bigha), 137 (13 Bigha 19 Biswa), 139 (11 Bigha 13 Biswa) and 145 (25 Bigha 01 Biswa) by Jagdish and Kishan Lal, sons, and Smt Dhapu, wife, of Narsingha in favour of his predecessor in interest namely Sanjay Kumar son of Balbir Singh for an amount of Rs. 1,38,360/- (One lakh thirty eight thousand three hundred and sixty) **“in cash”**. He has also produced on record photo-stat copy of sale deed no. 3693 dated 20/06/2013 executed by the above named Sanjay Kumar almost seven years later in favour of the objector herein.

(b) Similarly, the objector herein has produced on record photo-stat copies of sale deed no. 3430 dated 03/11/2006 executed in respect of land measuring 55 Bigha 18 Biswa comprised in Khasra No. 144 in favour of Sanjay Kumar above named by Khushal Singh, Gordhan Singh, Jog Singh, Guman Singh, Mangal Singh, Kheem Singh, Mangu Singh, Man Singh, Ridmal Singh, Bheem Singh, Ishwar Singh and Smt. Indra Kanwar widow of Jai Singh (as detailed in para 2 above) for an amount of Rs. 1,25,775/- (One lakh twenty five thousand seven hundred and seventy five) **in cash**. He has also produced on record subsequent sale deed dated 24/06/2013 executed by Sanjay Kumar above named in respect of the total land measuring 57 Bigha 13 Biswa plus 55 Bigha 18 Biswa as detailed in this para above almost seven years later in favour of the objector herein for an amount of Rs. 8,00,000/- (Eight Lakhs), **in cash**.

5. Reference may at this stage be made to observations of the Hon’ble Supreme Court in the case bearing the title Kaliaperumal Versus Rajagopal & Anr. (civil appeal no. 5800 of 2002) wherein it was observed, in para 8 thereof, as under :-


“Sale is defined as being a transfer of ownership for a price. In a sale there is an absolute transfer of all rights in the properties sold. No rights are left in the transferor. The price is fixed by the contract antecedent to the conveyance. Price is the essence of a contract of sale. There is only one mode of transfer by sale in regard to immovable property of the value of Rs.100/- or more and that is by a registered instrument. It is now well settled that payment of entire price is not a condition precedent for completion of the sale by passing of title, as Section 54 of Transfer of Property Act, 1982 (‘Act’ for short) defines ‘sale’ as a transfer of ownership in exchange for a price paid or promised or part paid and part promised. If the intention of parties was that title should pass on execution and registration, title would pass to the purchaser even if the sale price or part thereof is not paid. In the event of non-payment of price (or balance price as

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the case may be) thereafter, the remedy of the vendor is only to sue for the balance price. He cannot avoid the sale. He is, however, entitled to a charge upon the property for the unpaid part of the sale price where the ownership of the property has passed to the buyer before payment of the entire price, under section 55(4)(b) of the Act. Normally, ownership and title to the property will pass to the purchaser on registration of the sale deed with effect from the date of execution of the sale deed. But this is not an invariable rule, as the true test of passing of property is the intention of parties. Though registration is prima facie proof of an intention to transfer the property, it is not proof of operative transfer if payment of consideration (price) is a condition precedent for passing of the property. The answer to the question whether the parties intended that transfer of the ownership should be merely by execution and registration of the deed or whether they intended the transfer of the property to take place, only after receipt of the entire consideration, would depend on the intention of the parties. Such intention is primarily to be gathered and determined from the recitals of the sale deed. When the recitals are insufficient or ambiguous the surrounding circumstances and conduct of parties can be looked into for ascertaining the intention, subject to the limitations placed by Section 92 of Evidence Act.” Similar view has been expressed by the Hon’ble Supreme Court in the case bearing the title Vidhyadhar Versus Manikrao & Anr. reported in AIR 1999 SC1441.

6. In view of the foregoing discussion, the objector above named is held to be a bona fide purchaser for value of the property in question and the same is therefore liable to be removed from the list of properties attached by the committee as per www.auctionpacl.com. The petition is accordingly accepted.


Date :25-07-2018


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 :25-07-2018


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