

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

File no. 662

Objector : M/S Pearls Garden View Apartment Owner's Association
through its Secretary Nelson Thomas

Present : None

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 and 07/12/2018) of the Hon'ble Supreme Court in civil appeal no. 13301/2015 Subrata Bhattacharya Vs SEBI.

R.S. Virk

3. By way of the petition in hand received by post, the claimant association seeks award of Rs.9,44,08,428/- with the averments that by virtue of various sale deeds executed by M/S Pearls Infrastructure Projects Limited, the members of the above named association had purchased apartments in Pearls Garden View Apartment Complex at Chilavannoor, Kadavanthara, Kochi, but the above named builder despite its having collected full sale consideration in respect of 142 apartments situated in two blocks of one compound did not complete the construction which was completed by the association members besides carrying out various other works such as tress, drainage and grating work, STP commissioning, CTPT and its panel work, commissioning of lift, incinerator installation, garbage can installation, lamp posts and lighting in common area, landscaping civil works, garden works, CCTV installation etc., leading to aforementioned amount being incurred on their own by the association members which they are therefore entitled to recover. They have appended as Annexure-II the details of the amount totalling Rs. 9,44,08,428/- incurred under various heads mentioned above.
4. For the same amount, they have also filed a claim petition before the Interim Resolution Professional/ Resolution Professional, Ahmedabad named Mr. Vinod Tharachand Agrawal, statedly appointed as such by the National Company Law Tribunal while commencing corporate insolvency resolution process on 31/01/2019 against M/s Pearls Infrastructure Projects Limited.
5. The above referred claim of the above named association for recovery of Rs. 9,44,08,428/- cannot be entertained by me because my mandate is confined to dealing with objections/representations received by the Committee 'against' attachment of properties detailed in www.auctionpacl.com, which aspect is duly 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, and also duly notified in SEBI Press release no. 66 dated 08/12/2017 for the guidance of investors.
6. In view of the foregoing discussion, no notice is required to be issued to the claimant association whose petition is accordingly dismissed.

Date : 30/04/2019


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