

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

File no. 666

Objector : Vinay Bhasin

Present : (i) Sudeep Sudan, Advocate, Delhi (Enrolment No. D/846/2010)
on behalf of the objector
(ii) None for CBI
(iii) Shri Satyam Bhatiya, Advocate for 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 and 07/12/2018) of the Hon'ble Supreme Court in civil appeal no. 13301/2015 Subrata Bhattacharya Vs SEBI.

3. The objector above named seeks delisting, (from the list of properties shown attached on www.auctionpacl.com) commercial space nos. 49, 50,51, 55, 56 & 57, Mezzanine Floor, having covered area 161.89 Sq. Mtrs. (Super area 189.86 Sq. Mtrs.), Pearl Plaza Complex, constructed over plot nos. 24, 24A, 24B, 24C, 24D, 24E & 25 of Block-K, in Sector-18, Noida with the averments that the above described property was purchased by him vide registered sale deed dated 25/03/2006 (copy whereof is appended to the objection petition) and pursuant whereto possession thereof was duly delivered to him (copy whereof is appended to the objection petition).
4. Upon notice having been sent to CBI through email at its given email address sp1bsfcdel@cbi.gov.in vide my order dated 16/05/2019 for 03/06/2019, it submitted its reply on 03/06/2019 wherein it is averred that it had seized an agreement of sale dated 20/03/2014 from premises of M/S PACL Ltd vide seizure memo dated 04/02/2016 which agreement had statedly been executed by M/S Alarming Finvest Pvt. Ltd qua its one seventh share of the land described therein favour of PACL Ltd.
5. Upon notice having been sent to PACL through email at its given email address amarjit.bedi@gmail.com vide my order dated 16/05/2019 for 03/06/2019, it submitted its reply on 03/06/2019 wherein it is mentioned that the document pertaining to the land in question was seized from its premises by the CBI on 04/02/2016 in case no. RC.BD1/2014/E/0004/CBI/BS&FC/New Delhi. It is mentioned therein that as per its records, it had not sold the property in question to anyone.
6. I have heard the learned counsel for the objector and the counsel for PACL and have gone through the documents produced on record of this file.
7. Learned counsel for the objector has argued that the petition in hand has been filed in view of the property in question finding mention in the list of properties detailed on www.auctionpacl.com. A perusal of the sale deed (claimed by the objector to be dated 25/03/2006, but which as produced on record is actually dated 05/05/2006) reveals that it was executed as a tripartite sub-lease in his favour by M/S PGF Ltd through its authorised signatory Shri Rajeev Kumar Mishra for an amount of Rs.49,95,558/- which mentions inter-alia that PGF Ltd had earlier been allotted the said premises by NOIDA in terms of allotment letter no. NOIDA/Commercial/97/1314 to 1320 dated 23/07/1997 for a period of 90 years commencing from 20/01/1998 as duly recorded in registered document no.144 to 150 dated 21/01/1998.
8. (a) It may be noticed at the outset that Pearls Green Forests Ltd which had sold the land in question through its authorised person in favour of the objectors above named was

incorporated on 19/01/1983 at Chandigarh and is called PGF Ltd w.e.f. 1997. At the time of its incorporation, one Nirmal Singh Bhangoo was its Managing Director.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

9. (a) Subsequently, the Hon'ble Supreme Court vide order dated 22/01/2016 passed in Civil Appeal No. 6572 of 2004 bearing the title M/S PGF Ltd and others Versus Union of India and another had 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. At page 3 of the said order, it was recorded by the Hon'ble Supreme Court as under :-

Pursuant to our above order an affidavit dated 26th March, 2015 has been filed by the Superintendent of Police, CBI, wherein it has been pointed out as under in paragraph 11:-

“That CBI has seized papers (including some photocopies) of 348 properties of PGF and more than 14000 properties of PACL and others, all of which may not be title deeds. In the above affidavit dated 22.12.2014, the appellant has provided indicative list of 25 properties, said to be attached by CBI. In this regard, it is submitted that out of indicative list of 25 properties also, original title documents only in respect of 7 properties viz. SL. No. 10, 17, 18, 19, 20, 21 & 25 have been seized by CBI, while papers of 7 properties viz. SL. No. 2, 3, 4, 7, 9, 14 & 22 are 'Agreement To Sell' only and papers of 3 properties viz. SL. No. 11, 12 & 23 are Xerox copy only. Papers of remaining 8 of the said 25 properties do not figure in the list of papers seized by CBI. Similar discrepancies may be expected in remaining property papers also.”

(b) The Hon'ble Supreme Court had vide its above referred order dated 01/04/2015 in the above noted appeal had directed the CBI to handover all seized papers referred to in para 11 of its above quoted order as, reproduced verbatim in para 8(a) of this order above.

(c) No doubt the CBI in its reply dated 17/05/2019 filed to the objection petition in hand has mentioned therein that it had seized agreement of sale dated 20/03/2014 from premises of M/S PACL Ltd vide seizure memo dated 04/02/2016 which agreement had statedly been executed by M/S Alarming Finvest Pvt. Ltd qua its one seventh share of the land described therein favour of PACL Ltd and which agreement of sale has been handed over by it to this committee, yet this committee cannot pass any order releasing the property in question from attachment because it belonged to PGF Ltd in respect of sale of properties of which company, a committee headed by Hon'ble Mr. Justice Vikramjeet Sen, retired Judge of the Hon'ble Supreme Court stands appointed vide its order dated 01/04/2015 passed in Civil Appeal No. 6572 of 2004 bearing the title M/S PGF Ltd and others Versus Union of India and another. It may be recalled here that PACL Ltd in its reply to the petition in hand has averred that the document pertaining to the land in question was seized from its premises by the CBI on 04/02/2016 in case no. RC.BD1/2014/E/0004/CBI/BS&FC/New Delhi and that as per its records, it had not sold the property in question to anyone.

10. It will not be out of place to mention here that the CBI had averred before me in its applications dated 07/02/2018 (moved in file nos. 367/2 and 367/3, decided by me on 16/05/2018 and uploaded vide catalogue no. 211 & 212 at www.sebi.gov.in/PACL.html) that its Bank Securities & Fraud Cell Branch 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,

(b) It was averred inter-alia therein by the CBI that investigation revealed that the conspiracy is having National and International ramification 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 diverted the wrongful gain/fund through Sham Land Developments (11,000 Crore approximately). Further, in pursuance of said conspiracy, thousands of crores were 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.

11. In view of the foregoing discussion, the objection petition in hand is hereby dismissed as being not maintainable before this committee.

Date : 03/06/2019


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 : 03/06/2019


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