

**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. 447**

**Petitioner** : Hemraj & Others of Nirmal Chhaya Towers, Zirakpur

**Present** : Applicant Hemraj in Person with Sh. Mandip Singh Khillan, Advocate, Chandigarh

**File no. 448**

**Petitioner** : Virender Gandhi & Others of Nirmal Chhaya Towers, Zirakpur

**Present** : Sh. Mandip Singh Khillan, Advocate, Chandigarh for the Petitioners

**File no. 449**

**Petitioner** : Deepa Bhatnagar & Others of Nirmal Chhaya Towers, Zirakpur

**Present** : Sh. Mandip Singh Khillan, Advocate, Chandigarh for the Petitioners

**Order** :

1. This common order will dispose off the above noted three petitions containing three representations in all, dated 20/09/2017, 15/11/2017 and 31/01/2018, relating to as many as 48 petitioners as the issue involved in all these petitions is the same in as much as all the petitioners are allottees of Nirmal Chhaya Towers situated on VIP Road at Zirakpur, Mohali (Punjab) who are all aggrieved by the order dated 07/09/2016 of Recovery Officer, Recovery Cell, Northern Regional Office of Securities Exchange Board of India, New Delhi which reads as under:-

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A P No. 2644 of 2016

**Certificate No. 832 of 2016**

1. The Principal Officer/  
Chairman & Managing Director/CEO  
All the Banks in India

2. The Principal Officer/Chairman &  
Managing Director/CEO  
All the Mutual Funds in India

3. The Managing Director  
Central Depositories Services (India) Ltd.,  
17<sup>th</sup> Floor, P J Towers, Dalal Street,  
Mumbai -400001

4. The Managing Director  
National Securities Depository Limited,  
Trade World, A Wing, 4<sup>th</sup> & 5<sup>th</sup> Floors,  
Kamala Mills Compound, Lower Parel,  
Mumbai-400013

5. The Inspector(s) General of  
Registration All States/ Union Territories

a) Whereas a Recovery Certificate No. 832 dated December 11, 2015 has been drawn up by the Recovery Officer for recovery of a sum of Rs.49,100 Crores (Rupees Forty Nine Thousands One Hundred Crores) along with promised returns, in terms of order no WTM/PS/30/CIS/NRO/AUG/2014 dated Aug 22, 2014 issued by SEBI, further interest, all costs, charges and expenses in recovering the said sum, against PACL Ltd and its promoters & directors ["Defaulters"] and the same is due from them in respect of the said certificate; and

b) Whereas the Hon'ble Supreme Court by order dated February 2, 2016 directed sale of properties of PACL Limited under the supervision of a Committee headed by Justice (Retd.) R.M. Lodha; and

c) Whereas CBI has investigated the illegal money mobilisation by the company and submitted a charge-sheet before the competent court and it is observed from the charge-sheet that there were fund transfer between PACL Limited and many of its group/associate companies. It was also observed by CBI in various minutes of board meetings that PACL Limited had resolved to acquire land in the name of intermediates, associates, employees firms, companies and consideration being paid by the PACL.

d) Whereas the Hon'ble Supreme Court by order dated 25/07/2016 restrained PACL Ltd. and/or its Directors/ Promoters/ agents/ employees/ Group and/or associate companies from selling/transferring/alienating any of the properties wherein PACL has, in any manner, a right/interest whether situated within or outside India.

e) Whereas PACL Limited had its letter dated August 08, 2016 admitted having purchased lands in the name of its group/associate companies named in the annexure and

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majority of title deeds so far submitted by CBI to the Committee are held in the name of group/ associate companies and very few documents are in the name of PACL.

f) It is observed that the amount to be recovered, including the principal amount and the promised returns, further interest etc. would be more than Rs.55, 000 Crores. The Hon'ble SAT while dismissing the appeals filed by the company had observed in Para 49(I) that "Admittedly, value of the total lands held by PACL in the form of stock in trade as on 31/03/2014 was Rs. 11,706.96 Crore"

g) From the above, it is prima facie observed that the money mobilised by PACL in violation of SEBI (CIS) Regulations, 1999 is diverted the money to its group companies, associates and individuals.

h) In order to protect the interest of the investors in PACL Limited and to ensure compliance with the directions of the Hon'ble Supreme court, it is necessary to protect the money transferred by PACL to its associate entities, the properties purchased out of the money mobilised by PACL limited and those purchased by PACL Limited in the name of its group companies, associated and individuals from alienation.

i) In view of the above, the banks/ depositories and Mutual Funds are requested to take note of the order dated July 25, 2016 of the Hon'ble Supreme Court of India and with immediate effect that NO Debit shall be made in any of bank account/s lockers, demat accounts, Mutual Fund folios etc. by whatever name called heldby PACL Limited and/or the group/associate entities of PACL Limited mentioned in the **Annexure**, either singly or jointly with any other person/s,

j) Banks/ Depositories and Mutual Funds are hereby directed to provide the following immediately/within 15 days to the undersigned/ our representative on service of this Notice:

- i) Details all the demat/bank accounts including Lockers/Mutual Fund folios held by the group/ associate entities of PACL Limited mentioned in the **Annexure** with you,
- ii) Copy of the account statement/s for the past one year in respect of all the Accounts;
- iii) Confirmation of debit freeze of the said account/s
- iv) Complete details of all loan/advances accounts along with the details of assets charged for the said loan/advances.

k) The registration authorities of all States and Union Territories are hereby requested not to act upon any document purporting to be dealing with transfer of properties by PACL Limited and/or the group/associate entities of PACL Limited mentioned in the **Annexure**, if presented for registration.

Given under my hand and seal at New Delhi this 07<sup>th</sup> day of September 2016.

  
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SEAL

RECOVERY OFFICER

2. The petitioners have averred that a residential group housing society under the name and style of "Nirmal Chhaya Towers" was developed by Pearls Infrastructure Projects Ltd. at Zirakpur in the year 2006 and in respect of which completion certificate no. 2317 dated 13/07/2011 has been issued by Nagar Council, Zirakpur. The said Project statedly comprises 34 Towers in all, wherein 835 units stand constructed, each of which is a separate and independent unit allotted as such to various persons after receipt of the consideration amounts applicable thereto. It is claimed that most of the allottees of the said 835 units have got the conveyance deed / sale deed registered in their favour and pursuant thereto mutations have also been entered in favour of such persons but some of the allottees for one reason or the other could not get the sale deed registered and when they attempted in the recent past to get such sale deeds registered, they were apprised by the registration officer at Zirakpur regarding the above letter dated 07/09/2016 which has adversely affected the said persons who despite due payment of requisite amounts to the above named builder are unable to get the sale deeds of their respective units registered in their names which is causing undue hardship in matters of raising house loans or resale of such units. The petitioners thus pray for modification of the aforesaid order dated 07/09/2016 of the Recovery Officer for enabling due registration of their respective sale deeds more so when the aforesaid project having been completed as far back as in the year 2011 and duly handed over to the RWA is no longer under the management of the builder.

It may be mentioned at this stage that Sh. Mandeep Khillan, Authorised Representative for the petitioners herein has given a statement today to the effect that the averment for refund of amount from Pearls is not pressed in the present petitions as a separate petition (no. 446) stands filed in the said context before this committee. In view thereof, no order regarding refund / recovery is called for in these petitions.

3. As regards the prayer reproduced in the part of para 2 above, it will be appropriate to reproduce the relevant extract of the order of the Hon'ble Supreme Court dated 15/11/2017 passed in Civil appeal no. 13301/2015 bearing the title Subarata Bhattacharya versus Securities Exchange Board of India which reads as under:-

*"Since a committee headed by Shri. R. S. Virk, District Judge (Retd. ) has been constituted, in the first instance, all the grievance of these applicants shall be heard by the said committee and take a view on all these matters. Let all these applicants put up their cases before the Committee."*

*"Mr. Pratap Venugopal, leaned counsel, informs that the appointment of Shri. R. S. Virk, District Judge (Retd. ) shall be notified to all the applicants. It is also informed that a suitable accommodation is being arranged in Delhi at a convenient place in order to enable these applicants to appear before him. It is further stated that*


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*the Committee would be in a position to start functioning within one month from today."*

*" We impress upon Mr. Virk to take up all these matters on an urgent basis and submit his report within a period of four months. However, interim report shall be submitted within two months."*

4. A perusal of the list of various properties numbering 29087 attached under orders of Justice (Retd. ) R. M. Lodha Committee in PACL Matters reveals that the above described project viz Nirmal Chhaya Towers, Zirakpur (Mohali, Punjab) is not included in the said properties situated all over India as belonging to or controlled by PACL or any of its subsidiaries / associates and nor is the aforesaid project included in the list of 639 subsidiaries / associates of PACL India as forwarded by PACL to SEBI. In this view of the matter, the above referred order dated 07/09/2016 of the Recovery Officer, Recovery Sell, Northern Regional Office of Securities Exchange Board of India, New Delhi cannot be considered to be applicable to Nirmal Chhaya Towers, Zirakpur, Distt. Mohali, (Punjab).
5. In view of the foregoing discussion, the objection petition in hand is allowed in terms of para 4 of this order above.


**Date : 14/02/2018**

  
**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.

**Date : 14/02/2018**

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