

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 and
duly notified in SEBI Press release no. 66 dated 08/12/2017.

File no. 356

MR NO. 32776-16

Objector : Anil Bhagwan Rijhwani for himself and as Legal Representative of his father cum co owner Shri Bhagwan L Rijhwani, since deceased.

Present : Hanish Arora on the behalf of Objector.

1. 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. The said committee was asked to collect relevant record including title sale deeds from the CBI (Central Bureau of Investigation) if it is in possession of any documents. The committee on its part has put up various properties including the property forming the subject matter of the present objection petition for auction sale on its website www.auctionpacl.com.
2. The above named objectors seeks removal from the list of properties put up for auction/sale at www.auctionpacl.com flat no. 601, situated on 6th floor of building no. 4 known as "Sejal Tower" constructed by Sejal Construction Pvt. Ltd. on land bearing survey no. 161 (part) and now bearing CTS No. 1073/A situated in village Pahadi, Goregaon (west) in Greater Mumbai. The aforesaid flat having carpet area of 821.51 sq.ft. was earlier purchased by PACL through registered agreement of sale dated 04/12/2008 at pre construction stage and after completion thereof, possession was delivered to it on 30/10/2009 after the developers having obtained occupation permission of the building of the building no. 4 comprising this flat and other flats therein.

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3. PACL after obtaining NOC from the above named builder viz. Sejal Construction Pvt. Ltd on 28/04/2011 entered into registered agreement of sale dated 19/07/2012, with objectors herein namely Anil B Rijhwani and his father Shri Bhagwan L. Rijhwani against a sale consideration of Rs. 1,25,00,000/- (Rupees One crore twenty five lakhs) which amount was paid by the objectors in three different transactions as detailed here under:-

S.No.	Amount	Date	Name of Bank	Mode of Payment	Name of Payee
(i)	Rs. 5,00,000/- (Five lakhs)	03/07/2012	ICICI Bank	PONo. 003153	PACL Ltd.
(ii)	Rs. 26,00,000/- (Twenty six lakhs)	14/07/2012	ICICI Bank	DD No. 003197	PACL Ltd.
(iii)	Rs. 94,00,000/- (Ninety four lakhs)	14/07/2012	ICICI Bank	DD No. 003198	PACL Ltd.
Total	Rs. 1,25,00,000/- (One crore twenty five lakhs)				

4. Upon receipt of the aforesaid amount and no objection certificate issued by the builder above named for securing loan against mortgage of the said flat, PACL delivered possession of the said flat to the objectors herein 19/07/2012.
5. The objectors thus claim that they are bona fide purchasers of the above described flat against due consideration and therefore the said property should be removed from the list of properties put up for auction/sale at www.auctionpacl.com.
6. The entire sale consideration of Rs. 1,25,00,000/- (One crore twenty five lakhs) having been received by the vendor above named namely PACL and it having accordingly put the objectors herein in possession thereof on 19/07/2012, the said vendor had no right, title or interest whatsoever subsisting in this property thereafter and the objectors are thus entitled to protect their possession over the above described flat in the light of section 53A of the TP Act, read in the light of observations of the Hon'ble Supreme Court in the case bearing the title Suraj Lamp and Industries Pvt. Ltd. Versus State of Haryana reported in 2009 (7) SCC 363.

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7. In view of the foregoing discussion, the objection petition in hand is accepted and the above described property is held liable to be removed from the list of properties attached by the Committee for auction sale.

Date : 28/02/2018


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: 28/02/2018


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