

Before Shri R.S. Virk, District Judge (RETD.)
appointed to hear objections/representations in the matter of PACL Ltd.
as so 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 nos. 49 & 256

MR NO. 5434-16
18527-16, 18528-16,
18563-16, 5380-16,
5400-16, 5401-16,
5402-16, 5403-16,
5391-16, 17984-16,
5388-16 & 5390-16

Objector : Kisan Agro-Tech Cooperative Society Ltd.

Present : Sh. Radhey Shyam Singh, CEO of the objector society.

Order :

1. This common order will dispose off the above noted file nos. 49 & 256 because the objector in both these files is the same and even the issues involved in these two objection petitions are common.
2. 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. 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.

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3. 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.
4. The objector named vide its letters dated 03/01/2017, 30/03/2017 & 04/04/2017 has raised objection against inclusion for auction sale by the committee of the properties detailed below:-

S.No.	MR. No.	Date of Registry	Seller Name	Distt/ Village	Particulars of Land
1.	18527-16	13.04.2015	Singh & Singh Township Developers Pvt. Ltd	Fatepur, Bindaki	Kishunpur Eyatmali: 224G, 222K, 223G MIN, 224R Kishunpur Mustkil: 35K, 138, 139, 50, 183K, 161G
2.	18528-16	20.05.2015	Singh & Singh Township Developers Pvt. Ltd	Fatepur, Bindaki	Lahangi Eyatmail 88K/3, 88K/67, 87J, 88K/48, 88K/54, 88K/46, 88T, 88K/65, 88K/73, 88K/33, 88/13K, 88D, 88K, 88K/108, 88A/38, 87GH, 88K/34
3.	18529-16	13.04.2015	Singh & Singh Township Developers Pvt. Ltd.	Fatepur, Bindaki	Sultanpur Eyatmail: 248KH, 245GH, 248J, 245G, 245G/8, 248K/3, 248K/22 Sultanpur Mustkil: 53, 208, 246, 249K, 258, 259, 528/276, 195, 186, 237, 239, 445, 429KH
4.	18563-16	12.11.2014	World Wide Technobuild Ltd.	Fatepur, Bindaki	Umarodi Kalyanpur: 269, 265 MIN

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5.	5380-16	12.11.2014	World Wide Technobuild Ltd.	Fatepur, Bindaki	Rewadi Bujurg: 907
6.	5400-16	02.01.2015	World Wide Real Estate Pvt. Ltd	Fatepur, Bindaki	Rewadi Bujurg: 1013 MIN, 1014 MIN, 1016
7.	5401-16	03.01.2015	World Wide Real Estate Pvt. Ltd	Fatepur, Bindaki	Rewadi Bujurg: 1016, 1017, 1019, 1021
8.	5402-16	03.01.2015	World Wide Real Estate Pvt. Ltd.	Fatepur, Bindaki	Rewadi Bujurg: 1014 MIN
9.	5403-16	03.01.2015	World Wide Real Estate Pvt. Ltd.	Fatepur, Bindaki	Daulatpur: 111KA
10.	5391-16	18.09.2015	Vipul Hotel & Resorts Pvt. Ltd.	Fatepur, Bindaki	Rewadi Bujurg: 905
11.	17984-16	31.03.2015	Pearls Buildways Pvt. Ltd.	Panipat, Samalkha	Pattikalyan: 122/25/2, 122/6, 122/13/2, 122/15, 122/16, 122/17, 122/18, 122/21, 123/1/2, 123/11, 123/19, 123/20, 123/21, 123/22, 123/27
12	5388-16	07.08.15	Vipul Hotels & Resorts Pvt. Ltd. through Atul Shukla (A/R)	Fatehpur/ Bindaki/Umrodi Kalyanpur	Khata No. 81, Khasra no. 274 Total Area-0.3820
13.	5390-16	07.08.15	Vipul Hotels & Resorts Pvt. Ltd. through Atul Shukla (A/R)	Fatehpur/ Bindaki/Umrodi Kalyanpur	Khata No. 43, Khasra no. 265 MI 268 Total Area- (0.5870+0.0810)=0.6680
14	5434-16	09.02.2016	PACL Ltd	Araaji Chawani, Tappa-Kasaba, Pargana-Haweli, Tehsil Sadar, Distt. Gorakhpur	Property no.132, area 8479 sq.ft.,

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5. Before proceeding to discuss the authenticity or otherwise of the above referred sales, it may be borne in mind here that the properties detailed at Sr. Nos. 1, 2 & 3 of the table above, are included at Sr. No. 493; properties mentioned at Sr. Nos. 4 & 5 of the table above, are included at Sr. No. 600; properties mentioned at Sr. Nos. 6, 7, 8 & 9 of the table above, are included at Sr. No. 593; properties mentioned at Sr. Nos. 10, 12 & 13 of the table above, are included at Sr. No. 563 whereas the property mentioned at Sr. No. 11 of the table above, is included at Sr. No. 376, all in the total list of 639 subsidiaries / associates of PACL Ltd which list was forwarded by PACL itself addressed to the Nodal Officer of the Committee in response to the information sought by the committee, meaning thereby that all the aforesaid sales are to be deemed to be by or on behalf of PACL whose properties have been ordered by the Hon'ble Supreme Court vide order dated 02/02/2016 to be attached and sold for payment to investors who had invested their funds in the said company for purchase of land. It also needs to be highlighted here that the property mentioned at Sr. No. 14 of the table above has been sold by PACL Ltd to the objector herein vide sale deed dated 09/02/2016 for an amount of Rs. 3,68,69,000/- (three crores, sixty eight lakhs and sixty nine thousand) which sale is very much subsequent to the order of the Hon'ble Supreme Court dated 02/02/2016.
6. It is pertinent to highlight at this stage that the Nodal Officer cum secretary of the committee had called upon the objector herein to specify the sources of fund for purchase of property at Gorakhpur Sadar but the objector in its reply dated 02/02/2017 thereto with reference its earlier letter dated 14/09/2016 commented sarcastically that it raises its funds through share capital, admission fees, subscription, loans, cash credits, over draft from the bank or financial institutions; donations, grants and subsidiaries, contribution for members and profit - without however giving details as to from which account, on which date and, how much amount was withdrawn and paid in which manner such as RTGS / DD / cheque etc, though during arguments upon being specifically confronted on this aspect, the objector has furnished the following details-

Q. No. 8/3/18

Txn. Date	Description	Cheque No.	Amount Paid	Mode
02/09/2014	WORLD WIDE TECHNO BUILD LTD/ RTGS:SD1149435909	667549	17500000	RTGS
02/09/2014	WORLD WIDE REAL ESTATE PVT LTD/ RTGS:SD1149433673	667550	17500000	RTGS
03/09/2014	WORLD WIDE TECHNOBUILD LTD/ RTGS:SD1149751023	667551	2000000	RTGS
03/09/2014	SINGH AND SINGH TOWNSHIP DEVELOP/ RTGS:SD1149752420	667551	2800000	RTGS
03/09/2014	WORLD WIDE REAL ESTATE PVT LTD/ BARB0PUNJAB/129902000/PUNBH14246134929	667550	4000000	RTGS
19/09/2014	INTER OCCEAN VIDESH LTD/ RTGS:SD1153132082	667568	20000000	RTGS
18/03/2015	UCHIT CONSTRUCTION P LTD/ RTGS:SD1195231596	226914	30000000	RTGS
10/03/2015	PEARLS BUILDWAYS PRIVATE LIMITED	700297	10000000	Cheque
22/01/2015	PEARLS BUILDWAYS PRIVATE LIMITED	700295	10000000	Cheque
08/01/2015	PEARLS BUILDWAYS PRIVATE LIMITED	370708	15000000	Cheque
05/12/2014	PRERNA BUILDWELL PRIVATE LIMITED	778654	9000000	Cheque
05/12/2014	PRERNA BUILDWELL PRIVATE LIMITED	966755	4687374	Cheque
04/12/2014	PACL LTD	778658	9887372	Cheque
04/12/2014	PACL LTD	778656	10000000	Cheque
04/12/2014	PACL LTD	778657	10320299	Cheque
27/11/2014	PACL LTD/RTGS:SD1168141158	370688	10000000	RTGS
21/11/2014	PRERNA BUILDWELL PVT LTD/ RTGS:	778611	10000000	RTGS
19/11/2014	PACL LTD/RTGS:SD1166572651	370687	15000000	RTGS
13/11/2014	PGF LIMITED	370641	1000000	Cheque
05/11/2014	SINGH AND SINGH TOWNSHIP DEVELOP/ RTGS:SD116311108	370685	7200000	RTGS
05/11/2014	WORLDWIDE REAL ESTATE PVT LTD/ RTGS:SD1163715034	370684	4600000	RTGS
05/11/2014	NPB FARMS PRIVATE LIMITED	370702	3200000	Cheque
05/11/2014	NIRVAN HIRE PURCHASE LIMITED	370701	5000000	Cheque
31/10/2014	PACL LTD/RTGS:SD1162647623	667569	55000000	RTGS
21/04/2015	PGF LIMITED	756713	4000000	Cheque
08/05/2015	PGF LIMITED	756723	1642000	Cheque
29/05/2015	PGF LTD/RTGS:SD1213365094	756725	2500000	RTGS
05/06/2015	PACL LIMITED	756783	2500000	Cheque
11/06/2015	PACL LIMITED	756781	2500000	Cheque
11/06/2015	PACL LIMITED	756784	2500000	Cheque
20/06/2015	PACL LIMITED	756786	2500000	Cheque
20/06/2015	PACL LIMITED	756785	2500000	Cheque
01/07/2015	PACL LIMITED	122506	2500000	Cheque
02/07/2015	PACL LIMITED	122508	2500000	Cheque
02/07/2015	PACL LIMITED	122507	2500000	Cheque
07/07/2015	PACL LIMITED	122511	900000	Cheque
14/08/2015	PACL LIMITED	4079	6000000	Cheque
17/08/2015	PACL LIMITED	4080	6000000	Cheque
30/09/2015	PACL LIMITED	4203	2500000	Cheque
03/09/2014	NIRVAN HIRE PURCHASE LIMITED		2700000	Cheque
03/09/2014	NPB FARMS PRIVATE LIMITED		3500000	Cheque
31/01/2015	PEARLS BUILDWAYS PRIVATE LIMITED	129	30000000	RTGS
08/12/2014	WORLD WIDE REAL ESTATE PVT LTD	370689	2012000	DD
	Total Payments		365449045	

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7. The above details of payments are however neither certified by any office bearer of the objector nor any supportive documents such as certified copies of bank accounts pertaining to these transactions been produced for which reason no reliance can be placed on the above details of purported bank transactions moreso when it is borne in mind that out of the fourteen sale transactions detailed in para 4 of this order above, the sales were effected by only five companies namely Singh & Singh Township Developers Pvt. Ltd, World Wide Technobuild Ltd, World Wide Real Estate Pvt. Ltd, Vipul Hotel & Resorts Pvt. Ltd. and Pearls Buildways Pvt. Ltd. whereas the chart of payments furnished by the objector contains details of various other entities also such as Inter Ocean Videsh Ltd., Uchit Construction Pvt. Ltd, Prerna Buildwell Pvt Ltd, N P B Farms Pvt Ltd, Nirvan Hire Purchase Ltd and PGF Ltd out of whom Prerna Buildwell Pvt Ltd, N P B Farms Pvt Ltd, Nirvan Hire Purchase Ltd which incidentally are associates / subsidiaries of PACL as per entries at Sr. Nos. 413, 348 and 346 respectively of the list of subsidiaries / associates of PACL furnished by itself. In the absence of production of supporting bank statements, duly certified, being produced with reference to the sale transactions in questions, the genuineness thereof cannot therefore be readily accepted moreso because the objector has resorted to such purchases from PACL group which was under investigation by SEBI for having resorted to collecting funds through *Collective Investment Scheme* within the meaning of section 11AA of SEBI Act, 1992 but without obtaining the requisite permission from SEBI as contemplated in the said Act and the Regulations framed thereunder. The said transactions thus appear to be circuitous transfer of money illegally collected by PACL and the objector society cannot therefore be considered to be a bonafide purchaser for value. Reference may in this context be made to the observations of the Hon'ble Supreme Court in the case bearing the title S. P. Chengal Varaya Naidu (Dead) By Lrs. Versus Jagannath (Dead) By Lrs. and others reported in (1994) 1 Supreme Court cases 1 wherein it was held that “*a fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is 'cheating' intended to get an advantage*”. It was further held therein that:-

“Fraud avoids all judicial acts, ecclesiastical or temporal observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and nonest in the eyes of law. Such a judgment / decree by the first court or by the highest court has to be treated as a nullity by every court,

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whether superior or inferior. It can be challenged in any court even in collateral proceedings."

8. In view of the foregoing discussion, I do not find any merit in any of the two objection petitions detailed above which are both hereby dismissed.

Date : 08/03/2018


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 : 08/03/2018


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