

DULY SWORN ON: 18-03-2025

CROSS-EXAMINATION BY Sri. ND THE COUNSEL FOR Respondent – 4 & 5:

I am director in five to six companies other than petitioner company. The said companies in which I am director are HEYBNP private limited ,Histana Media Private Limited, Master Component Limited, NGF Limited. Waste Bull Management Private Limited & Fijita Private Limited. If it is suggested to me that all the above companies are Group companies coming under the management of the Nithish Shetty, I say not all.I say that other than NGF and master component companies, other companies are coming under the management of Nithish Shetty.

2.If it is suggested to me that I am also the shareholder of petitioner company, I say I was the founding director and therefore I own 10 shares in the petitioner. It is true to suggest that in the main petition in Com. AA 171 of 2022, it is stated that there are some disputes between NEL Holding South Limited and the landowners.I am not aware of the dispute which went before RERA tribunal. I have communicated the interim order passed in commercial AA 571 of 2022 to R4 and 5.I do not

remember how I communicated the said interim order to R4 and 5.

3.I do not know if it is suggested to me that pursuant to the RERA dispute, the project was taken over by Home Buyers Association. I am not aware of the office bearers of the home buyers association. The reference to employees who tried to enter the schedule premises in paragraph 6 of Affidavit Evidence is to Padmajan and some security persons whose names I do not remember. My reference to taking of photographs and videography by employees is to the photographs marked at exhibit P1.I do not know who took the said photographs. Witness volunteers that at that time I was not present at the site.The person wearing blue shirt who is seen in the first two photographs of exhibit P1 is one is Gopa Kumar.

4.It is true to suggest that I have not taken any photographs or video.

At this stage, further cross-examination by R4 and R5 is deferred for the purpose of enabling counsel for R1 to 3 to finish cross-examination of this witness.

Cross examination by Shri BRP for R1 to 3 :-

5. My education qualification is that I am a commerce graduate, law graduate and company secretary. I can read and write English and Kannada. I have been the director of Petitioner since the date it was incorporated about 7-8 years back. Whatever I have stated in my affidavit evidence is based on my personal knowledge.
6. It is true to suggest that Nitesh Shetty is holding 99% of the shareholding of petitioner company. I am not aware if it is suggested to me that said Nitish Shetty is also holding 99% of shareholding in Nitish Estates Limited which is now known as Satchmo Holdings Private Limited. It is true to suggest that earlier I was working in Nitish Estates Limited. It is true to suggest that earlier Nitish Estates was a private limited company and now from the year 2010 it is public limited company. I worked in Nitesh Estates from 2007 to 2010.
7. I do not know if it is suggested to me that Nitish estates has entered into settlement agreement with R1 and 3. I do not know if it is suggested to me that at the time of entering the settlement agreement, Nitesh estates had represented that there is no

charge or encumbrance in respect of the petition schedule property. I do not know if it is suggested to me that Nithish Estates had handed over a portion of 50% partly constructed building to respondent 1 – 3. I do not know if it is suggested to me that for the petition schedule premises of commercial AA 571 of 2022, there is no occupancy certificate, fire safety certificate or BWSSB license.

8. After exiting from Nitesh Estates in 2010, I was working in different group companies of Nitesh Shetty. It is true to suggest that Petitioner is also one of the group companies of Nitesh Shetty.

9. I do not know if it is suggested to me that at the time of filing commercial AA 571 of 2022, the petition schedule property was not fully constructed. I have not verified occupancy certificate, BWSSB license and fire safety certificate, before the petitioner entered into petition schedule premises. I am not aware of the final orders dated 14-3-2024 passed by the court in commercial AA 571-2022.

10. Why you have not read the final order passed by this court?

Answer. I do not have answer for this question.

11. I am not aware whether petitioner has filed any appeal against the said final order passed by this court in commercial AA 571 of 2022. If it is suggested to me that I am deposing falsely and the petitioner has filed an appeal against the said order, I say I do not remember. I have read the ad-interim order passed in commercial AA 571 of 2022 dated 15-11-2022. I am not aware if it is suggested to me that in the final order the court has recorded the finding that petitioner is not in possession of the petition schedule property. I have not gone through the full order sheet in commercial AA 571 of 2022.

12. I am not aware if it is suggested to me that after passing ad interim order, the court issued notice to respondents and posted the matter to 7/12/2022. I do not know if it is suggested to me that on the next day there is office note stating that the notice of R1 to 3 is returned as insufficient address. I am not aware if it is suggested to me that notice was personally served to R3 on 13.1.2023. I do not know if it is suggested to me that up to

7/12/2022 notice was not served to R1 to 3. I do not know if it is suggested to me that on the four dates mentioned by me in my petition, as the dates on which there was violation of the interim order of this court, as on those dates R1 to 3 were not at all aware of the interim order dated 15/11/2022.

13. Myself and one Mr. Raj Shekhar who is a legal head of petitioner company went to the police station to give complaint. The name of Rajshekar is mentioned as Complainant in the said Police Complaint. It is false to suggest that I was not present at the time of alleged police complaint.

14. Since, the matter was being handled by legal department, Rajshekhar gave the complaint. When witness is asked against whom he gave the complaint, initially witness says against Vishwanath, Amit Tiwari and Abhairaj Shetty and then again witness says I do not remember.

15. **Question** : I put it to you that after filing the police complaint with the help of the police, you tried to take possession of the petition schedule premises?

Ans : Since in the interim order, we were given liberty to take

certain actions in the petition schedule premises, with the help of the police, we tried to take possession of the property.

16. **Question** : what liberty was given to you by the ad interim orders? [Question disallowed because it is a matter of record since the said ad interim order dated 15/11/2022 is already marked as exhibit P3.]

17. We did not file any application in commercial AA 571 of 2022 for taking police protection or taking a direction to the police. If it is suggested to me that I have not shown the copy of the said police complaint to Vishwanath, Amit Tiwari and Abayaraj Shetty, I say the police complaint was given to the police officer and then the said police officer called them and police officer showed the said complaint to them. It is true to suggest that I have not personally shown the police complaint to above three persons. It is false to suggest that even the police officer did not show the complaint to above three persons.

18. **Question** as alleged in your petition whether you are in possession of petition schedule premises?

answer we were in possession.

19. Now, we are not in possession of the petition schedule premises. witness volunteers since they are not allowing us to enter. It is false to suggest that at no point of time we were in possession of the petition schedule premises.
20. I know one Swami KV, who is the employee of Nitesh group of companies. I do not know if it is suggested to me that said Swami K.V. has sent an email to petitioner with a copy to Abhairaj Shetty that after passing of the final order of the court, they are not in possession of petition schedule premises. I do not know if it is suggested to me that in the said email it is stated that petitioner is not in possession of petition schedule premises.
21. If it is suggested with that at no point of time, the interim order dated 15/11/2022 was communicated by me to respondent 1 to 3, I say that our legal department has communicated to them. It is false to suggest that I have deposed falsely and legal department has also not communicated. If it is suggested to me that the petitioner never carried out fit-out activities in the premises, since we were never in possession, I say we started some activities.

22. We have not purchased the materials which is necessary for commencing the fit out activities. I was not physically present in the premises on the dates on which I allege there was violation of the court order.

23. Now, exhibit P1 is shown to witness and asked whether he is able to identify who are the persons in the photographs and witnesses says the person in the blue shirt is Gopa Kumar who is the manager of petitioner and the other persons are the security guards of petitioner. It is false to suggest that the photographs at exhibit P1 do not relate to the petition schedule premises. It is false to suggest that no incident as stated in my affidavit evidence ever took place. The photographs at exhibit P1 were taken by our security. It is false to suggest that exhibit P1 are created photographs. There was no impediment to take the photographs in such a manner that the date of the photographs would appear in the photographs itself.

24. I do not know if it is suggested to me that the R1-3 are not aware of the photographs at exhibit P1. If it is suggested to me that there was no impediment to take video of the alleged disturbance incident, I say video was taken and CD is produced.

It is false to suggest that the video in the CD is created by me. It is false to suggest that I have deposed falsely that respondents have breached the order of the court. It is false to suggest that I have filed a false petition. It is false to suggest that without any material, I am trying to create a nexus with Amit Tiwari and Vishwanath. It is false to suggest that I have given false evidence.

At this stage, further cross-examination deferred since it is submitted that the respondents have not received copy of the CD marked as exhibit P2. For the same reason, further cross-examination by R4 and R5 is also deferred.

(Computerized to my dictation in the Open Court as deposed by the Witness)

R.O.I.& A.C,

(SUDINDRANATH.S.)

LXXXIII ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.