

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5868/2010

Housing Development Finance

-----Petitioner

Versus

Raj Fin Corp And Ors

-----Respondent

Connected With

1. S.B. Civil Writ Petition No. 6082/2010
2. S.B. Civil Writ Petition No. 6085/2010
3. S.B. Civil Writ Petition No. 6112/2010
4. S.B. Civil Writ Petition No. 6861/2010
5. S.B. Civil Writ Petition No. 7116/2010
6. S.B. Civil Writ Petition No. 940/2011
7. S.B. Civil Writ Petition No. 1996/2011
8. S.B. Civil Writ Petition No. 2537/2011
9. S.B. Civil Writ Petition No. 16149/2011
10. S.B. Civil Writ Petition No. 1810/2012
11. S.B. Civil Writ Petition No. 4418/2012
12. S.B. Civil Writ Petition No. 6028/2015
13. S.B. Civil Writ Petition No. 926/2022

For Petitioner(s)	:	Mr. Abhay Kumar Bhandari Senior Counsel with Mr. Vaibhav Bhargava, Mr. Jitendra Mishra, Mr. Sanjay Rahar, Mr. Yalloop Singh, Mr. V.K. Rathore
For Respondent(s)	:	Mr. R.P. Singh AAG with Mr. J.S. Shekhawat, Mr. Kamlakar Sharma Senior Counsel with Ms. Alankrita Sharma, Mr. V.Lodha, Senior Counsel with Mr. Rachit Sharma, Mr. Bipin Gupta, Dr. V.B. Sharma, AAG, Ms. Jaya P. Pathak for Mr. Sandeep Pathak, Mr. Manjeet Kaur, Adv. Mr. Naresh Sharma with Mr. Aditya Jain Mr. Lalit Sharma (Addl.SP, ACB)

HON'BLE MR. JUSTICE SAMEER JAIN

Order

19/04/2023

The matter was listed in the backdrop of the orders dated 13/03/2023 and 17/04/2023. Various applications have been filed. In the writ petition No. 6861/2010, application No. 2/2022 and 3/2022 are filed and impleadment of State of Rajasthan through Home Secretary is prayed.

It is submitted that various FIRs were lodged by the home purchaser/flat purchaser/investors, numbering FIR No. 10/2010, 783/2009 at Police Station, Vaishali Nagar, Vidhayakpuri, FIR No. 153/2010 at Police Station, Ashok Nagar, and FIR No. 208-209/2011 at JDA Police Station. Petitioners have contended that RFC officers were hand in glove with the builders Krishna Villa Prime Apartments Pvt. Ltd., and Amay Home Services Ltd. and they have together played fraud upon the petitioners. In this background, it is submitted that after hugely exaggerating the market value of the mortgaged property, higher amount of loan was extracted from RFC. Thereafter, even change in Directors of respondent-builder company was permitted by the RFC, which was contrary to the terms and conditions. Further, verification of title deed and physical verification of the site in question was also never performed, and parallel loans were granted on the same property by HDFC and IDBI and on the other hand, RFC had also financed the above said parties. Thereafter, on account of default, the properties in question were put to auction. It is further submitted that investigation is also pending against the officers of RFC with the Anti Corruption Bureau, Rajasthan. Petitioners have relied upon Apex Court judgment of **Bikram Chatterji & Ors. vs.**

Union of India reported in **(2019) 19 SCC 161** to submit that fraud vitiates all actions as it is against the public trust doctrine.

In writ petition No. 926/2022, it is submitted that in spite of fact that the petitioner was the first successful bidder in the auction proceeding initiated by the RFC, an attempt is made by RFC to declare some alien candidate, M/s Mahatama Jyoti Rao Phoole University, as the successful bidder by relying upon by inapplicable RFC guidelines which has no statutory backing and is *dehors* the sanctity of auction proceedings.

Considering the submissions so made and in the facts and circumstances of the case, this Court deems it appropriate to allow the application(s) for impleadment of State through Home Secretary. The petitioners are directed to file amended cause title and to serve copy of notices upon the respondent-State through Home Secretary, who is required to update this court regarding status of above referred FIRs, action taken by ACB against the erring officers, the current status of investigation and the whereabouts of the absconding Directors. The reply of the State, if any, be filed.

The other applications filed by the parties will be considered on the next date.

The matter be listed after three weeks.

In the meantime, requisites be carried out.

The RFC is directed to maintain status quo regarding property in question and not to go for confirmation of sale till the disposal of writ petitions.

(SAMEER JAIN),J