

ITEM NO.301

COURT NO.2
(HEARING THROUGH VIDEO CONFERENCING)

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Civil) No.940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Issues related to Prem Mishra; IA No.12572/2022 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.90985/2020 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.74385/2020 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.90986/2020 - FOR EXEMPTION FROM FILING AFFIDAVIT; IA No.74386/2020 - FOR EXEMPTION FROM FILING AFFIDAVIT; and, IA No.8259/2019 - FOR INTERVENTION)

WITH

W.P.(C) No.245/2018 (X)

W.P.(C) No.306/2018 (X)

W.P.(C) No.502/2019 (X)

Diary No.36392/2019 (X)

SLP(C) No.1879/2018 (XVII)

SMC (Cr1) No.4/2018 (XVII)

W.P.(C) No.1374/2021 (X)

(FOR ADMISSION; IA No.166630/2021 - FOR EXEMPTION FROM FILING O.T.; and, IA No.166629/2021 - FOR APPROPRIATE ORDERS/DIRECTIONS)

W.P.(C) No.378/2018 (X)

W.P.(C) No.298/2018 (X)

CONMT. PET.(C) No.483/2020 in W.P.(C) No.940/2017 (X)

W.P.(C) No.288/2018 (X)

W.P.(C) No.1397/2018 (X)

**T.P.(Cr1.) No.280/2021 (XVI-A)
(IA No.84179/2021 - FOR EX-PARTE STAY; and, IA No. 84176/2021 - FOR
EXEMPTION FROM FILING PROOF OF SURRENDER)**

W.P.(C) No.246/2018 (X)

W.P.(C) No.226/2018 (X)

W.P.(C) No.267/2018 (X)

W.P.(C) No.1018/2017 (X)

W.P.(C) No.353/2018 (X)

W.P.(C) No.460/2018 (X)

W.P.(C) No.829/2018 (X)

W.P.(C) No.742/2018 (X)

W.P.(C) No.199/2018 (X)

W.P.(C) No.134/2018 (X)

W.P.(C) No.164/2018 (X)

W.P.(C) No.1206/2017 (X)

W.P.(C) No.281/2018 (X)

W.P.(C) No.1116/2017 (X)

W.P.(C) No.1156/2017 (X)

W.P.(C) No.1144/2017 (X)

W.P.(C) No.1041/2017 (X)

W.P.(C) No.971/2017 (X)

W.P.(C) No.947/2017 (X)

W.P.(C) No.56/2018 (X)

W.P.(C) No.57/2018 (X)

W.P.(C) No.74/2018 (X)

W.P.(C) No.131/2018 (X)
W.P.(C) No.182/2018 (X)
W.P.(C) No.942/2017 (PIL-W)
W.P.(C) No.8/2018 (X)
W.P.(C) No.1242/2017 (X)
W.P.(C) No.58/2018 (X)
W.P.(C) No.21/2018 (X)
W.P.(C) No.52/2018 (X)
W.P.(C) No.91/2018 (X)
W.P.(C) No.160/2018 (X)

Date : 21-02-2022 These matters were called on for hearing today.

CORAM :

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UPON hearing the counsel the Court made the following
O R D E R

PART – I

NOTES - 1, 2 & 3 -
SUBMITTED BY MR. R. VENKATARAMANI, COURT RECEIVER

NOTE – 1

A) Re.: FUNDING BY BANKS

This matter was dealt with in the orders dated 25.10.2021 and 13.11.2021.

It is submitted that because of COVID-19 Pandemic situation, substantial progress could not be undertaken. The Note however states that all the requirements for finalizing the funding proposals and necessary documentation have been completed and Bank of Baroda is to act as the lead bank of the Consortium.

We have heard Mr. Alok Kumar, learned Advocate for UCO Bank, Mr. Bishwajit Dubey, learned Advocate for Bank of Baroda, and Ms. Megha Karnwal, learned Advocate for State Bank of India (some of the members of the Consortium).

All the learned Advocates have accepted that the concerned Banks are in the process of reaching final stages of decision and within a week's time, the matters will be concluded at the topmost levels of the concerned banks, whereafter funding can immediately begin.

It is in this light that the following observations are made by the learned Receiver:-

“Since there is no further need for deliberations or exchange of information, this Hon’ble court may direct consortium of banks that the respective funds being agreed upon by each bank shall be released in the course of this week, in order to facilitate the Receiver and NBCC to plan the further execution of the work and also clear outstanding liabilities without any further delay.”

Mr. Siddhartha Dave, learned Senior Advocate appearing for NBCC submits that the NBCC has already put in more than Rs.109 Crores without being put in funds and the situation requires immediate intervention.

Considering the circumstances on record and with a view to ensure steady flow of funds, we direct the members of the Consortium of Banks to place on record their final decisions within seven days from today and to start effecting the funding within a week thereafter so that at least Rs.300 Crores are released by way of first tranche on or before 15.03.2022.

In order to obviate any delay, the decisions may be taken by the individual Banks by circulation.

List this matter for further consideration on 21.03.2022 as the First Item on Board.

B) Re.: CLEARANCE REQUIRED IN RESPECT OF YASHIKA DIAMONDS FALLING UNDER CATEGORY 'B'

The case of M/s. Yashika Diamonds was dealt with in paragraph 28 of the judgment dated 23.07.2019 in which it was found that in terms of the Report given by the Financial Auditors, an amount of Rs.6 Crores was due from Yashika Diamonds.

The learned Receiver submits that M/s. Yashika Diamonds has now deposited Rs.7,64,63,850/- being the present market value of the plot in question. The learned Receiver has, therefore, prayed that clearance be given and the attachment in respect of the plot in question be lifted.

We accept the prayer.

We, therefore, direct lifting of the attachment in respect of the plot in question and permit the learned Receiver to execute title deeds in favour of M/s. Yashika Diamonds. The amount received from M/s. Yashika Diamonds shall now be utilized for the purposes of building construction and other activities.

C) Re.: MISCELLANEOUS

Under this caption, the learned Court Receiver has highlighted that the residents of various Amrapali projects keep contacting him with regard to matters, such as, quality of work by contractors, internal issues between residents and associations, disputes between residents of two projects (Sapphire 1 and 2), issues created by residents concerning handing over completed items of work by NBCC, etc.

The learned Court Receiver has submitted that he may not be involved in such matters and that undue demands on the Receiver to look into minor details of work are not the mandate of the learned Receiver.

We see force in the submission of the learned Receiver.

The Note also indicates that “issues concerning remedial execution works by NBCC, and quality of execution of projects etc, are matters to be explained by NBCC and to be taken care of by the NBCC”.

Certain apprehensions have been expressed by Mr. M.L. Lahoty, learned Advocate appearing for the home-buyers about the quality of construction.

Mr. Siddhartha Dave, learned Senior Advocate appearing for the NBCC while responding to the above apprehension, submits that the NBCC has requisitioned the services of two third party agencies i.e. NIT Nagpur and IMT Jalandhar to apprise it of quality control issues and matters relating to adherence to quality standards.

Mr. Dave assures the Court that construction work undertaken by the NBCC shall be of good quality and there would not be any compromise with quality.

NOTE - 2

A) Re.: ATTACHED ASSETS

The learned Court Receiver has given details in Annexure ‘A’ to this Note about four properties which were subjected to e-auction held on 07.12.2021. The details as furnished in Annexure ‘A’ are as under:

Summary of E-Auction held on 07.12.2021						
SI No	Property Description	Fair Values	Realisable Value	Distress Value	Reserve Price	H1 Bid Amount
1	E-11, Jaypee Greens, Noida owned by Sh Shiv Priya	3,47,93,900	3,13,14,510	2,78,35,120	3,40,00,000	5,86,00,000
2	E-12, Jaypee Greens, Noida owned by Sh Anil Kr Sharma	3,48,03,600	3,13,23,240	2,78,42,880	3,30,00,000	6,33,00,000
3	E-1/4, Jaypee Greens, Gt Noida owned by Sh Shiv Priya	14,18,45,715	12,76,61,143	11,34,76,572	9,80,00,000	17,01,00,000
4	L801, Pearls, Sector 44, Noida by Sh Shiv Priya	5,17,49,500	4,65,74,550	4,13,99,600	4,30,00,000	E-Auction put to hold
	Total	26,31,92,715	23,68,73,443	21,05,54,172	20,25,00,000	29,20,00,000

Said Annexure thereafter gives following details with regard to the outstanding claims of Banks with respect to some of the properties. The details are as under:

- “1) E – 11, Jaypee Greens, Noida – Property was mortgaged with Axis Bank, no dues pertaining as on date. However, original documents pertaining to property are under Axis Bank’s possession.
- 2) E-12, Jaypee Greens, Noida – Axis Bank has submitted its total claim of INR 3,01,83,199/- (INR 2,15,42,707/- as principal & INR 86,40,492/- as interest)
- 3) E-1/4, Jaypee Greens, Gt. Noida – Union Bank of India has submitted its total claim of INR 5,31,91,653.58/- (INR 3,97,68,037.70/- as principal outstanding , INR 1,32,04,643.88/- as uncharged interest & (INR 2,18,972/- as Legal and other charges)”

Mr. Brijender Chahar, learned Senior Advocate appearing for Mr. Shiv Priya has invited our attention to the orders dated 23.11.2020, 05.04.2021, 03.09.2021 and 13.11.2021 to submit all that identical opportunity as was afforded to Mr. Anil Kumar Sharma, be extended to Mr. Shiv Priya.

Accepting the request, we grant three days' time to Mr. Shiv Priya and all related persons to submit all the documents on which they wish to place reliance in support of their case. Let the documents be looked into by Mr. Pawan Aggarwal, one of the Forensic Auditors, who may thereafter instruct the learned Court Receiver accordingly. Mr. Pawan Aggarwal, Forensic Auditor may have the benefit of interaction with Mr. Shiv Priya through Video-Conferencing or with the lawyers appearing in person so that appropriate inputs can be obtained before requisite assistance can be given to the learned Receiver.

The learned Receiver may deal with the issues and come out with a Note on the next occasion so that the objections, if any, to the proposed e-auction can be dealt with conclusively.

In the meanwhile, the auction with respect to the properties mentioned at Serial Nos.1 to 3 in the Tabular Chart quoted hereinabove may proceed further. However, the final decision shall be withheld so that the objections preferred by Mr. Anil Kumar Sharma and Mr. Shiv Priya and their related persons and relatives can first be dealt with.

List this issue for further consideration on 07.03.2022.

B) Re.: CLAIM BY BANKS

Ms. Garima Prashad, learned Senior Advocate for Bank of Maharashtra and Mr. Devender Kumar Singh, learned Advocate for the Axis Bank submit that the claims of the respective Banks with regard to principal amount as well as the interest must be secured and only the remaining amount be credited to the account of flat-buyers.

The learned Court Receiver, Mr. M.L. Lahoty and Mr. Kumar Mihir, learned Advocates appearing for the home-buyers strongly oppose the claim of the Banks towards interest.

It is made clear that after the auctions are completed, the amounts of the concerned Banks towards “principal” outstanding shall be cleared but the amounts claimed towards “interest” shall not be made over to the banks till further orders.

C) Re.: SALE OF RESORT LAND AT UDAIPUR

One of the properties mentioned in Annexure ‘C’ of the Note is a resort land in Udaipur at Site No.1, 200 Road, Revenue Village Sukher, Near Chitrakoot Awas Scheme, Front of Mewar Hitech Engg. Ltd., Udaipur, Rajasthan admeasuring 12.7386 Hectares.

According to the Note, a bid was received at the reserve price of Rs.25 Crores which was found to be acceptable and a sale letter was issued to the highest bidder. The Note further submits that according to the details received from the office of the Urban Improvement Trust, Udaipur (UIT), existing dues of UIT are to the tune of

Rs.4,82,81,509/- (INR 13,19,273/- being delay penalty charges and Rs.4,69,62,236/- being dues towards lease rent).

As no Counsel is appearing on behalf of the UIT, we issue notice to the UIT through its Chairman, returnable on 07.03.2022.

Dasti service, in addition, is permitted.

In the meantime, the sale as stated in Annexure 'C' of the Report, be effected. However, sale value shall be set apart and shall not be credited to the general account of the flat-buyers till further orders.

D) Re.: SALE OF MOVABLE ASSETS OF PRE CAST FACTORY, GREATER NOIDA

Annexure 'D' to the Note deals with the Pre Cast Factory, Greater Noida, in respect of which the highest bid in the sum of rs.17.05 Crores has been received by the Receiver. Orders are sought with regard to the auction of assets of Pre Cast Factory.

Having considered the Note, we permit the learned Receiver to go ahead with the proposed sale. The amount received from the prospective buyers shall be credited to the general account of the flat-buyers for completing the construction and other related activities.

NOTE - 3

The issues mentioned in Note-3 shall be dealt with on 07.03.2022.

PART-II

**Re.: MATTERS CONCERNING MR. PREM MISHRA,
RELATED PERSONS AND OTHER ENTITIES**

[IA No.8259/2019 – For Intervention/Direction (Vol. No.Z-88); IA No.74385/2020 - For Direction (Vol. No.I-131), IA Nos.90985 and 90986 of 2020 – For Direction and for Exemption from Filing Attested Affidavit (Vol. No.I-141); Affidavit in Compliance of Order dated 07.12.2020 (Vol. No.R-138); Provisional Attachment Order No.01/2021 dated 22.02.2021 passed by the Enforcement Directorate (Vol. No.R-173), and, Objection to the observations made against the applicant by Forensic Auditor in Reports dated 23.07.20219 and 10.10.2019 (Vol. No.R-86)]

Mr. Vikas Singh, learned Senior Advocate appearing for Mr. Prem Mishra and other connected entities submits that in the month of December 2021, final order has been passed by the Adjudicating Authority under the Prevention of Money Laundering Act and that the matter, therefore, assumes a different complexion.

List this matter for consideration on 07.03.2022 as Second Item on Board.

PART - III

**Re: I.A. No. 12572 OF 2022 (Vol. No.I-185) – Application on behalf of
M/s. La Residentia Developers Private Limited**

Mr. V. Giri, learned Senior Advocate assisted by Ms. Udit Singh, learned Advocate-on-Record appearing for the applicant La Residentia Developers Private Limited submits that an appropriate application shall be filed to make some of the applicants before the RERA Uttar Pradesh and the Religare Finvest Ltd./Religare Housing Development Finance Corporation Ltd. as parties in the instant proceedings.

Let the needful be done within a week from today.

List this matter for consideration on 07.03.2022.

PART - IV

Re: I.A. No. 122602 OF 2021 (Vol. No.I-177) – Application seeking issuance of direction for release of Passport and cancellation of look out circular issued, if any, against Rajeev K. Saxena, Partner, S.N. Dhawan & Co., LLP (Statutory Auditor for 4 out of 46 Companies)

Heard Ms. Sonia Mathur, learned Senior Advocate assisted by Dr. Charu Mathur, learned Advocate-on-Record in support of the application.

Issue notice, returnable on 07.03.2022.

Learned Receiver shall seek appropriate instructions in the matter and respond by the next date of hearing.

PART - V

Re.: Transfer Petition (Crl.) No.280 of 2021 – Ajay Kumar & Others v. Directorate of Enforcement & Others (Vol. No.P-56)

We do not see any reason to entertain this Transfer Petition. The Transfer Petition is dismissed in terms of the Signed Order placed on the file.

PART – VI

Re.: IA Nos.13600 and 13574 of 2022 – Applications for Intervention and Direction on behalf of Sikka Infrastructure Pvt. Ltd. (Vol. No.Z-380)

Mr. Maninder Singh, learned Senior Advocate assisted by Mr. Santosh Kumar-I, learned Advocate-on-Record prays for consideration of these Interlocutory Applications.

List on 07.03.2022.

PART – VII**Re.: SUBVENTION LOAN ISSUE**

Mr. Kumar Mihir, learned Advocate appearing for some of the Home-Buyers submits that the issue of Subvention of Loan be taken up for disposal as early as possible.

List this issue for consideration after conclusion of the issue pertaining to Mr. Prem Mishra and related parties.

PART – VIII**Re.: Writ Petition (Civil) No.1374 of 2021**

After having argued the matter for sometime, Mr. Aditya Nayyar, learned counsel for the petitioner submits that he will be filing an appropriate application to amend the writ petition.

List the matter on 07.03.2022.

PART – IX

All the remaining Interlocutory Applications on Board are adjourned to 07.03.2022 at 2.00 p.m.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
TRANSFER PETITION (CRIMINAL) NO.280 OF 2021

AJAY KUMAR & OTHERS	VERSUS	Petitioners
DIRECTORATE OF ENFORCEMENT & OTHERS		Respondents

O R D E R

Heard Mr. Manoj Singh, learned counsel for the petitioners and Mr. Sanjay Jain, learned Additional Solicitor General for the Directorate of Enforcement.

We do not see any reason to entertain this Transfer Petition. The Transfer Petition is, accordingly, dismissed.

.....J.
(UDAY UMESH LALIT)

.....J.
(BELA M. TRIVEDI)

New Delhi,
February 21, 2022.