

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
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(1. Issues relating to Mr. Prem Mishra; and, 2. I.A. Nos.108696 & 108703 of 2020 (Vol. No.I-147); and, I.A. Nos.108670 & 108681 of 2020 (Vol. No.I-148) - Applications filed by NOIDA/Greater NOIDA for Recalling of Court's Orders)

WITH

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

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

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

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

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

T.P.(Cr1.) No. 280/2021 (XVI-A)

(FOR ADMISSION and I.R.; IA No.84179/2021 - FOR EX-PARTE STAY; and, IA No.84176/2021 - FOR EXEMPTION FROM FILING PROOF OF SURRENDER)

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

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

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

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

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

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

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

W.P.(C) No.131/2018 (X)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Diary No.36392/2019 (X)

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

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

W.P.(C) No.942/2017 (PIL-W)

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

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.56/2018 (X)

W.P.(C) No.91/2018 (X)

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

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

W.P.(C) No.160/2018 (X)

W.P.(C) No.182/2018 (X)

Date : 13-09-2021 These matters were called on for hearing today.

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HON'BLE MR. JUSTICE AJAY RASTOGI

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

PART-I

**Re.: MATTERS CONCERNING 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 23.07.2021 and 10.10.2019 (Vol. No.R-86)]

Mr. Vikas Singh, learned Senior Advocate submits *inter alia*:

- a. Provisional Attachment Order No.01/2021 dated 22.02.2021 passed by the Enforcement Directorate has quantified the liability of Prem Mishra to the tune of Rs.4,79,76,180/- . This provisional order has now been confirmed by the Prescribed Authority. Therefore, the attachment effected in terms of the Order dated 11.01.2021 passed by this Court may suitably be modified.
- b. Considering the nature of circumstances, the entire exercise be undertaken in this Court rather than relegating Mr. Prem Mishra to the proceedings before the PMLA Authorities.

Mr. Sanjay Jain, learned Additional Solicitor General has responded to these submissions, which need not be set out at this stage.

At our request, Mr. Pavan Agarwal, learned Forensic Auditor has also made his submissions. However, Mr. Aggarwal does not have the benefit of the text of the provisional Attachment Order or the Status Report filed by the Enforcement Directorate.

Mr. Sanjay Jain, learned Additional Solicitor General has readily accepted that these two documents can be made over to Mr. Aggarwal by tomorrow. He has further submitted that the concerned officials from the Enforcement Directorate will also be available so that in case Mr. Aggarwal has any objections or queries, the same can suitably be responded.

In the circumstances, we direct:

- i. Let the copies of the Attachment Order and the Status Report be made available to Mr. Pavan Aggarwal, learned Forensic Auditor by 14.09.2021 in a sealed cover.
- ii. The concerned officials of the Enforcement Directorate shall be with Mr. Pavan Aggarwal in his office on 17.09.2021 to answer the queries of Mr. Aggarwal, if any.
- iii. Mr. Aggarwal will file his Report in a Sealed Cover in this Court on or before 20.09.2021 and will return the copies received in terms of direction (i) in a sealed cover.

List these issues for further consideration on 20.09.2021 as First Item.

PART-II

Re: I.A. Nos.108696 & 108703 of 2020 (Vol. No.I-147); I.A. Nos.108670 & 108681 of 2020 (Vol. No.I-148) - Applications by NOIDA/Greater NOIDA for Recalling of Court's Orders; Reply on behalf of ACE Group of Companies to the Applications (Vol. No.R-120); Affidavit in reply on behalf of Prateek Buildtech Pvt. Ltd. (Vol. No.R-128); Affidavit in reply on behalf of Prateek Realtors India Pvt. Ltd. (Vol. No.R-129); Rejoinder Affidavit on behalf of Greater NOIDA to the reply filed by ACE Group in IA No.108696/2020 (Vol. No.R-134); Rejoinder Affidavit on behalf of NOIDA to the reply filed by ACE Group in IA No.108670/2020 (Vol. No.R-135); and Rejoinder Affidavit on behalf of NOIDA to the reply filed by Prateek Group in IA No.108670/2020 (Vol. No.R-136)

Mr. Ravindra Kumar, learned Advocate appearing for NOIDA/Greater NOIDA started his arguments at 3.30 p.m. and he was on his legs at 4.15 p.m., when the Court rose for the day.

For further hearing, list these issues on 20.09.2021 as Second Item.

PART – III

Re: SUBVENTION LOAN ISSUE

On 03.09.2021, this Court had issued notices to certain Banks which had extended the concerned facility and entered into Subvention Agreements to enable them to submit their respective responses.

Mr. Kumar Mihir, learned Advocate submits that apart from the Banks, Dewan Housing Finance Corporation Limited (DHFL) had also extended Subvention Facility and entered into Subvention Agreements.

Let notice be also issued to Dewan Housing Finance Corporation Limited, returnable on 20.09.2021.

List this issue for further consideration on 20.09.2021.

PART - IV

All the remaining Interlocutory Applications on Board are adjourned to 20.09.2021.

PART - V

List the matters on 20.09.2021 at 2.00 p.m..

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER