

ITEM NO.301 Court 2 (Video Conferencing) Corrected
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(s)(Civil) No(s). 940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 100821/2021 - APPLICATION FOR PERMISSION
IA No. 108703/2020 - APPLICATION FOR PERMISSION
IA No. 108681/2020 - APPLICATION FOR PERMISSION
IA No. 100822/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 99661/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 100367/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 100361/2020 - INTERVENTION APPLICATION
IA No. 105017/2021 - INTERVENTION/IMPLEADMENT
IA No. 108696/2020 - RECALLING THE COURTS ORDER
IA No. 108670/2020 - RECALLING THE COURTS ORDER)

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. and IA No.84179/2021-EX-PARTE STAY and IA No.84176/2021-EXEMPTION FROM FILING PROOF OF SURRENDER.)

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

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

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

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

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

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

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(s). 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 : 03-09-2021 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****NOTE SUBMITTED BY LEARNED R. VENKATARAMANI, LEARNED COURT RECEIVER****(A) FUNDING BY BANKS**

Learned Court Receiver submits that he has had extensive meetings with the officials of consortium of six banks namely; Bank of Baroda, Punjab National Bank, Bank of India, State Bank of India, UCO Bank and Punjab & Sindh Bank. He further submits that the consortium has agreed to extend funding and that documentation in that behalf will be executed during this month whereafter the loans are expected to be disbursed.

Learned Court Receiver is requested to keep the Court apprised with regard to the developments.

(B) RE: DATA & STATUS OF HOME BUYERS AS ON 17.07.2021

This issue was dealt with in Part II (D) of the order dated 13.08.2021.

Learned Court Receiver submits that the list of 9538 home buyers has now been rectified and that an advertisement will be published shortly and that the process of screening will thereafter be done and the matter shall be presented before this Court on the next occasion.

PART II

I.A. No.99661 of 2020 (I-173) -APPLICATION FOR DIRECTIONS BY NBCC

The instant application has been filed praying *inter alia* for following reliefs:

"a) Necessary orders/directions may kindly be passed, directing that NBCC is at liberty to fix locations for the respective community facilities such as DG, transformer, etc. in accordance with the approved layout plan(s) and in the event that locations of facilities are not specified/clear in the sanctioned plan of any project(s), in such an event, NBCC shall be at liberty to fix appropriate location considering technical feasibility based on site situations without any hindrance from RWA/SWA/AOA or from any resident of the respective society.

B) Necessary orders/directions may kindly be passed directing that respective RWA/SWA/AOA of such project(s) shall not create any hindrance in taking over such project(s) from NBCC upon completion."

Learned Court Receiver as well as Mr. M.L. Lahoti, learned Advocate representing home buyers have no objection to the prayers made in the application.

We accept the application and direct that NBCC shall mark appropriate locations for the community facilities like G.D., Transformers, etc. on the approved layout plan or in the event that such locations are not fixed in the approved sanctioned/layout plan, mark the same at a place which according to the opinion of the NBCC is the appropriate location. After making such markings, the copies of the concerned plans under the signature of the responsible Officers of the NBCC shall be filed in the Registry of this Court for the purposes of record.

This I.A. stands disposed of.

PART III

NOTE DATED 03.09.2021 SUBMITTED BY MR. M.L. LAHOTI, LEARNED ADVOCATE FOR HOME BUYERS

A. It is submitted that five private individuals have shown willingness and inclination to purchase following attached properties of Amrapali Project:

	Application No.	Property	Offer Price
Z-348	I.A. No.28063 & 28070 of 2021 (Notice issued on 05.04.2021 page 979)	E-11, Jaypee Greens, Sector 128 Noida	Rs.2,70,00,000/-
Z-356	I.A. No.56431 & 56434of 2021	E-12, Jaypee Greens, Sector 128 Noida	Rs.2,70,00,000/-
Z-355	IA.No.56420 & 56423 of 2021	E-1/4, Jaypee Greens, Surajpurkasna, Greater Noida	Rs, 8,00,00,000/-
Z-357	I.A.No.69178 & 69198 of 2021	A-14, Jaypee Greens, Sector 128, Noida	Rs. 1,65,00,000/-
Z-360	I.A. Nos. 94548 & 94549 of 2021	L-801, Pearl Gateway Towers, Sector 44, Noida	Rs. 4,00,00,000/-
			Rs.19,05,00,000/-

Mr. Brijender Chahar, learned Senior Advocate appearing for Mr. Shiv Priya submits that out of the aforesaid five properties, his client has interest in three properties at Sr. Nos.2,3 and 5 and that unless the matter with regard to the issue as to whether the properties of the Directors can be proceeded against is decided by this Court, the exercise need not be undertaken. He has invited our attention to the orders dated 23.11.2020 and 05.04.2021 in terms of which learned Court Receiver was requested to consider the

objections on behalf of Mr. Anil Kumar Sharma, related persons or their representatives and then submit a preliminary Report. The orders had also requested Forensic Auditors to associate themselves with the concerned inquiry. It is submitted by Mr. Chahar that the exercise so contemplated by said orders dated 23.11.2020 and 05.04.2021 has not yet been undertaken.

Mr. Pavan Aggarwal, learned Forensic Auditor, who is present, submits that from 6th September onwards, he shall associate himself with the inquiry contemplated by the aforesaid orders. The learned Court Receiver submits that the exercise shall be undertaken and concluded as early as possible and the outcome shall be reported to this Court. Let the needful be done.

In the meantime, we request the learned Court Receiver to engage the services of any competent and qualified Valuer to value the aforementioned five properties, so that appropriate steps can be taken on the next occasion.

Let the process of valuation be undertaken immediately and Valuer's Report be placed on record.

List this issue after three weeks.

RE: UNUSED AND PERMISSIBLE F.A.R.

B. The next issue highlighted by Mr. Lahoti is with regard to the unused/ permissible FAR as dealt with in note dated 02.08.2021, which according to Mr. Lahoti can fetch about Rs.1,001.67 crores.

The note dated 02.08.2021 had submitted: -

“As per page 32 of “Abstract of Inventories of Stalled/incomplete projects of Amrapali in Noida/Greater Noida” submitted by the learned Court Receiver in June, 2020, an amount of Rs.1001.67 crores can be fetched from the unused and permissible FAR in the following manner:

I. Unused Sanctioned FAR (pages 21.24)

Project	Saleable Area (lakhs sq. ft.)		Likely Market value (lakhs sq. ft.)		Total (in Crores)
	Residential	Commercial	Residential	Commercial	
Silicon City	11.232	1.69	134.78	30.42	165.20
Princely Estate	2.509	0.0312	30.11	0.56	30.69
Dream Valley	20.111	0.975	140.78	14.64	155.40
Centurian Park	16.003	0.351	112.02	5.27	117.29
Leisure Park	1.131	0.065	7.92	0.98	8.89
Golf Homes	12.922	0	90.45	0	90.45
	67.02				Rs.567.91 crores

II. Permissible FAR (Pages 25-26)

Project	Saleable Area (lakhs sq. ft.)		Likely Market value (lakhs sq. ft.)		Total (in Crores)
	Residential	Commercial	Residential	Commercial	
Leisure Valley	46.72	0.69	327.05	10.33	337.38
Leisure Park	6.45	0.40	45.14	6.05	51.18
Golf Homes	6.32	0.07	44.23	0.98	45.20
	60.65				Rs.433.76 crores”

Mr. Siddharth Dave, learned Senior Advocate appearing for NBCC also furnished a Note which has dealt with this issue in paragraphs 3 to 6 as under:-

"3. That vide order dated 29.10.2020, NBCC was permitted to effectuate sale of unsold inventories and FARs, under the supervision of the Ld. Receiver. That for the aggressive sale of unsold inventory and unused FAR in Erstwhile Amrapali projects and to generate the cash flow to meet out the fund requirements by sale of inventories, it was proposed that Channel Partners be appointed by floating tenders. That vide letter dated 12.06.2021, the Ld. Court Receiver accorded his consent to the Engagement of Channel Partners for Sale of Housing units and Commercial areas of Various Erstwhile Amrapali Projects at Noida and Greater Noida and requested to solicit the final approval from this Hon'ble Court for appointment of Channel Partner.

4. That pursuant to the same, tenders were floated for "Appointment of Channel Partner for Sale of Housing units and Commercial areas of Various Erstwhile Amrapali Projects at Noida and Greater Noida". Technical bid of the said tender was opened on 05.08.2021, wherein 4 bidders have submitted their tenders. Two bidders namely M/s Quikr India Private Ltd and M/s Square Yards Consulting Pvt. Ltd were technically disqualified for not meeting the eligibility criteria as per NIT.

5. That Financial Bids of two bidders namely M/s Anarock Property Consultants Pvt. Ltd and M/s Investors Clinic Infratech (P) Limited were opened and M/s Anarock Property Consultants Pvt. Ltd was the lowest bidder with quoted percentage of 2.86% plus GST. That vide letter dated 02.09.2021, approval was sought from the Ld. Court Receiver to award the work to M/s Anarock Property Consultants Pvt. Ltd.

6. That on 01.09.2021, NBCC has received advance copy a Writ Petition filed by M/s Square Yards Consulting Pvt. Ltd. before the Hon'ble Delhi High Court against NBCC, inter-alia seeking directions to quash the disqualification by NBCC and directions to consider the Financial Bid of

M/s Square Yards Consulting Pvt. Ltd.”

Mr. Dave submits that considering the fact that sale of unused inventory and FARs will require extensive marketing, the learned Court Receiver has accorded consent to the engagement of Channel Partners. The process of selection of Channel Partners has therefore been undertaken. However, NBCC has recently received an advance copy of a Writ Petition filed by M/s. Square Yards Consulting Pvt. Ltd. as stated in paragraph 6 of the Note.

Mr. Dave submits that an appropriate application seeking transfer of said Writ Petition to this Court will be filed by NBCC.

C. SUBVENTION SCHEME

This issue was dealt within the order dated 29.10.2020 in Part 1(f) and the note given by the learned Court Receiver was quoted in extenso. Notices were directed to be issued to (i) Bank of Maharashtra, (ii) Union Bank (erstwhile Corporation Bank and Andhra Bank, which have since then merged in the Union Bank), and (iii) Canara Bank, which had extended the concerned facility and entered into Subvention Agreements. It appears that despite such notice, no responses have yet been received from the concerned Banks.

Ms. Deepika Raghav, learned counsel appearing for the Bank of Maharashtra and Canara Bank submits that appropriate responses shall be filed within a week's time.

Mr. Kumar Mihir, learned counsel submits that apart from the aforementioned three banks, State Bank of India, Central Bank of India and Bank of Baroda have also extended similar facility and entered into Subvention Agreement.

We issue notices to these banks and direct them to submit their responses within two weeks' time.

D. CLEARANCE OF DUES BY THE HOME BUYERS

Mr. Lahoti, learned counsel for the home buyers submits that some of the projects undertaken by the NBCC are nearing completion and about 2500 apartments will be ready for delivery of possession.

To a query whether the home buyers who have booked these apartments have paid up all their instalments, Mr. Lahoti submits that most of them may be entitled to have the compensation towards delay in delivery of possession to be adjusted against the instalments that are due from them.

At this stage, all the concerned home buyers must pay up all their instalments so that as soon as the projects are completed by the NBCC, possession of the respective apartments can be handed over to the concerned home buyers.

We direct the home buyers to pay up all their instalments on or before 10th October, 2021

PART IV

On the next date, the matters pertaining to Prem Mishra and some of the Companies with which he is associated (Vol. R-138) and the report submitted by Enforcement Directorate shall be taken as first item on board, followed by the applications filed on behalf of Noida/Greater Noida Re: I.A. No.108696/2020 (Vol. No.I-147) and I.A.No.108670/2020 (Vol. No.I-148).

List these matters on 13.09.2021 at 2.00 PM.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER