

ITEM NO.301

COURT NO.4
(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.

Petitioners

VERSUS

UNION OF INDIA & ORS.

Respondents

(Issue related to NOIDA/GREATER NOIDA; Issue related to Mr. Ajay Kumar; Issue related to M/s Mahagun; Re.: Delivery of Flats by NBCC; Re.: Tenders by NBCC for remaining Projects; Funding/ Financing from HUDCO; IA No.108681/2020 - FOR PERMISSION; IA No.108703/2020 - FOR PERMISSION; IA No.9118/2021 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.1023/2020 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.122225/2020 - FOR CLARIFICATION/DIRECTION; IA No.115383/ 2020 - FOR CLARIFICATION/DIRECTION; IA No.9115/2021 - FOR INTERVENTION APPLICATION; IA No.3573/2020 - FOR INTERVENTION/IMPLEADMENT; IA No.122221/2020 - FOR INTERVENTION/IMPLEADMENT; IA No.77651/2020 - FOR MODIFICATION OF COURT'S ORDER; IA No.122226/ 2020 - FOR MODIFICATION OF COURT'S ORDER; IA No.108696/2020 - FOR RECALLING THE COURT'S ORDER; IA No.108670/2020 - FOR RECALLING THE COURTS ORDER; and, IA No.6521/2021 - FOR RECALLING THE COURT'S ORDER)

WITH

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

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

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

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

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

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

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

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

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

Diary No.36392/2019 (X)

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

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

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

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

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

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

W.P.(C) No.267/2018 (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.131/2018 (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.947/2017 (X)

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

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

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

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

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

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

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

W.P.(C) No.8/2018 (X)

W.P.(C) No.21/2018 (X)

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

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

W.P.(C) No.58/2018 (X)

W.P.(C) No.52/2018 (X)

W.P.(C) No.1242/2017 (X)

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

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

Date : 05-04-2021 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

Re.: NOTE SUBMITTED BY MR. R. VENKATARAMANI, COURT RECEIVER

A) **Re.: "DELAY POSSESSION COMPENSATION"**

Mr. M.L. Lahoty, learned Advocate appearing for the home-buyers prays for and is granted two weeks' time to respond.

List the matter for further consideration on 19.04.2021.

PART-II

Re: OFFICE REPORT

A) **Re.: RELEASE OF PAYMENT IN TERMS OF LETTERS RECEIVED FROM THE LEARNED COURT RECEIVER**

The Office has reported that in response to the requests received from the office of the learned Receiver regarding the Professional Fees of Rs.3,30,000/- payable to Mr. Devendra Kumar Mishra; Rs.10,00,000/- to be paid to the learned Receiver towards administrative and other expenses; and, Rs.23,87,044/- to be released in favour of MSTC Ltd. relating to their services rendered for e-Auction, appropriate sums have been released.

B) **Re.: RELEASE OF Rs.100 CRORES TO NBCC**

The Office Report also indicates that with regard to the release of Rs.100 Crores to NBCC, the matter is under process.

PART-III

Re.: NOTE DATED 05.04.2021 SUBMITTED BY MR. M.L. LAHOTY, ADVOCATE

A) Re.: DELIVERY OF FLATS BY NBCC

The Note submits as under:

"As per NBCC Status Report dated 19.03.2021, total 1,257 Flats have been completed between August 2020 and March, 2021 and are ready for possession. Moreover, recorded in the Order dated 07.09.2020 NBCC has completed 230 Flats as back as in September 2020 and the Learned Receiver was directed to file response as to the status of handing over the said Flats and the money received from the Home Buyers. Accordingly, this Hon'ble Court may kindly ascertain the status of the said Flats."

The learned Receiver submits that a foolproof system has been put in place which will look into various issues including whether there are multiple bookings, and whether the flat-buyers have cleared all the dues or not; only whereafter the possession of the concerned flats shall be handed over to the home-buyers.

Let the exercise be undertaken as early as possible and the learned Receiver may submit appropriate Status Report after the process is complete.

B) Re.: SALE OF ATTACHED PROPERTIES BY MSTC

The Note makes reference to the orders dated 14.10.2019, 02.12.2019, 18.12.2019, 22.05.2020 and 13.10.2020 passed by this Court.

It is submitted that no details with regard to the steps undertaken for auctioning of the attached properties have been placed on record and up till now, only two Flats, eight Cars and one Corporate Tower, totalling only to Rs.7.64 Crores (approximately) have been auctioned by the MSTC.

The learned Receiver submits that under his directions the process of auctioning has been put on hold, that he has ordered fresh evaluation of the properties in question; and that after obtaining Status Report with regard to valuation, the process will be re-initiated. According to the learned Receiver, this had to be undertaken otherwise the entire process would have run into same difficulties, which were experienced when the earlier auctions were undertaken.

The learned Receiver has assured that within a month's time, appropriate Report shall be filed before this Court.

C) Re.: RECOVERY OF Rs.912.72 CRORES FROM DIRECTORS, CFO & OTHERS

Our attention is invited to the order dated 23.11.2020, in terms of which the learned Receiver and the Forensic Auditors were to grant personal hearing to Mr. Anil Kumar Sharma and other related individuals and submit a Preliminary Report for consideration by this Court.

The learned Receiver states that the Committee has had interaction with Mr. Anil Kumar Sharma. He submits that in case

any further interaction is necessary, the next Schedule will be devised in consultation with Mr. Manoj Singh, learned Advocate appearing for Amrapali Group of Companies. A concrete suggestion in that behalf shall be placed for consideration of this Court on 12.04.2021.

D. Re.: RECOVERY OF Rs.7.23 CRORES FROM M/s. ACE INFRACITY DEVELOPERS PVT. LTD.

This issue was dealt with in Part-B of the order dated 01.12.2020 whereafter notices were issued to Mr. Santosh Kumar Chaubey and Mr. Nishant Chaubey, returnable in the first week of January 2021.

According to Mr. M.L. Lahoty learned Advocate, the matter has not been dealt with thereafter.

Mr. Lahoty further submits that Noticees have entered appearance through Ms. Ranjana Roy Gowai, learned Advocate.

Let this matter be listed for consideration next week.

E. Re: THE BIDS INVITED BY THE NEW RAIPUR DEVELOPMENT AUTHORITY

The Note submits that vide order dated 04.01.2021, Raipur Authority was directed to file an affidavit with regard to the observation made by this Court in the Order dated 14.10.2019 and clarify whether a sum of Rs. 19,38,74,175/- was deposited by Amrapali for the three plots with the Raipur Authority or Rs.24,30,38,988/- as stated in the Forensic Auditors Report. However, no affidavit has been filed.

Mr. Mohit D. Ram, learned Advocate appearing for the New Raipur Development Authority seeks time of three days to respond to the above submissions.

List this matter for further consideration on 12.04.2021.

F. Re: I.A. NOS.28060 & 28070 OF 2021 (VOL. No.Z-348); I.A. NO.112929 OF 2020 (VOL. No.I-153); AND, I.A. NOS.141201 & 141202 OF 2019 (VOL. No.Z-226)

Mr. M.L. Lahoty, learned Advocate further invited our attention to the interlocutory applications submitted on behalf of certain individuals.

Let these matters be considered by the Forensic Auditors as well as the learned Receiver and appropriate response be filed before the next date of hearing.

List these matters for consideration on 19.04.2021.

G. Re.: IA Nos.122221, 122225 & 122226 of 2020 (Vol. No.Z-331); and, I.A. No.6521 of 2021 (Vol. No.I-162)

With regard to the properties held by Mr. Ajay Kumar, the matter was dealt with in Part-IV of our order dated 07.12.2020 and it was directed that except the amount relatable to said plot i.e. "Plot No.A-014, Savanna Villa, Jaypee Greens, NOIDA", rest of the amounts shall be deposited by Mr. Ajay Kumar in the Registry of this Court within four weeks.

Thereafter, the Order dated 05.03.2021, recorded the statement of the learned counsel as under:

“Mr. Luthra, on instructions, readily agreed to the suggestion that in order to show *bona fides* of his client, let an amount of Rs.10 crores be deposited in the Registry of this Court by his client within two weeks.”

In its order dated 23.07.2019, this Court (on internal page no.95) had recorded as under:

“Ajay Kumar

1. Mr. Ajay Kumar received funds from Amrapali group of Companies which was used for acquiring personal properties, as stated hereunder:

a. Property located at Plot no: A-014 Savanna Villas, Jaypee Greens Sector-128, Noida; the property was not disclosed in affidavit submitted on 3rd December, 2018 - (Housing loans was paid for this property out of amount received from Group companies)

b. Property located at IRS colony, Abhay Khand, Indirapuram, Ghaziabad - Rs.1.38 crore.

c. Property located at Plot No: A-014, Pelican Villa Jaypee Green Noida 201301 - Rs.1.11 crore.

2. Mrs. Seema Kumari (Wife of Ajay Kumar) made investments in different mutual funds amounting to Rs.2.25 crore out of amounts received from Amrapali group of companies during August to September, 2018.

3. Mr. Ajay Kumar made investments in Life insurance Policies of Rs.2.59 crore out of amounts received from Amrapali group of companies.

4. Mr. Ajay Kumar made payment of Rs.1.25 crore to following third parties out of amounts received from Amrapali Group of Companies:

a. Yogesh Chand Rs.25,00,000

b. Ozone GSP Infratech Rs.50,00,000

c. Quality Synthetic Industries Ltd Rs.50,00,000

5. Mr. Ajay Kumar made investment of Rs.1.12 crore in Ultra Home Construction as Share Capital out of amounts received from Amrapali group of companies.

6. Mr. Ajay Kumar made payment of direct tax of Rs.0.11 crore out of amounts received from Amrapali group of companies.

7. Mrs. Seema Kumari holds mutual funds with HDFC mutual funds Folio no 14756739/01, which have market value amounting to Rs.0.48 crore as on 28th February 2019.

8. Bank Statement of Anandi Singh of IndusInd Bank Account no.150019032006.

A sum of Rs.1.73 crore has been transferred from Seema Kumari on 09/08/2018.

Further a sum Rs.2.25 crore has been invested in Mutual Funds as per details given below:

Date	Particulars	Amount
16/08/2018	Mirae Asset MF	5,000,000
16/08/2018	Aditya Birla Mutual Fund	5,000,000
18/08/2018	Kotak Mutual Fund	5,000,000
11/09/2018	HDFC Mutual Fund	5,000,000
12/09/2018	Tata Mutual Fund	2,500,000
Total		22,500,000

Note: This amount can be attached and recovered by encashment of these investments."

Since there is complete failure on part of Mr. Ajay Kumar to deposit the money, we direct the Receiver and the Forensic Auditors to take urgent steps in accordance with law to dispose of the assets of Mr. Ajay Kumar as recorded in the order dated 23.07.2019.

Let the exercise be undertaken at the earliest.

PART-IV

Re.: I.A. No.12103 OF 2021 (Vol.I-163); I.A. No.45439 OF 2021 (Vol. No.I-169); and, Document Vol. No.R-159.

In terms of directions issued by this Court in its order dated 28.07.2020 and 07.09.2020, a sum of Rs.240 Crores has been deposited by the applicant M/s. Mahagun Real Estate Pvt. Ltd. before 31.03.2021. The applicant has also deposited an additional sum of Rs.8,90,33,151/- towards the component of interest. Thus, a total amount of Rs.248,90,33,151/- has been deposited in the Registry of this Court.

Mr. Parag P. Tripathi, learned Senior Advocate appearing for the applicant has invited our attention to the order dated 28.07.2020 and submitted that having complied with the direction regarding deposit, the necessary documentation in favour of his client may immediately be executed.

Mr. Ravindra Kumar, learned Advocate for NOIDA has submitted that by next date of hearing, a statement of dues of NOIDA as on 31.03.2021 shall be placed on record by way of an affidavit whereafter appropriate directions can be issued by this Court.

List this matter for consideration on 12.04.2021.

PART-V

Re: I.A. No.108696/2020 (Vol. No.I-147) and I.A. No.108670/2020 (Vol. No.I-148) - Applications by GREATER NOIDA Authority for Recalling of Court's Orders dated 10.06.2020, 19.08.2020 and 25.08.2020

List these applications on 12.04.2021.

PART-VI

Re.: I.A. NOs.130219 & 130209 OF 2020 (Vol. No.Z-338)

Heard Mr. C. Aryama Sundaram, learned Senior Advocate in support of the application.

List these applications for consideration on 12.04.2021.

PART-VII

Re.: I.A. No.29660 OF 2021 (Vol.I-166).

Mr. Naresh Kaushik, learned Advocate appearing for the applicants has submitted that all the dues of Amrapali have been paid by his clients and the only issue is whether his clients are entitled to the exchange and possession of the property in question pursuant to such exchange.

Let the matter be considered by the Receiver.

List this matter for further consideration on 19.04.2021.

PART-VIII

All the remaining Interlocutory Applications on Board are adjourned to 19.04.2021.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER