

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 &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No.87129/2020 - APPROPRIATE ORDERS/DIRECTIONS; IA No.74385/2020 - APPROPRIATE ORDERS/DIRECTIONS; IA No.6608/2018 - CLARIFICATION/DIRECTION; IA No.73797/2020 - CLARIFICATION/DIRECTION IA No.15119/2020 - EXTENSION OF TIME; IA No.6855/2018 - IA FOR GRANTING PERMISSION TO ACCESS THE PORTAL FACILITY; IA No. 87126/2020 - INTERVENTION APPLICATION; and, IA No. 140269/2017 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

WITH

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

(IA No.124195/2017 - FOR CLARIFICATION/DIRECTION)

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

(IA No.27092/2018 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

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

(IA No. 35467/2018 - FOR CLARIFICATION/DIRECTION; and, IA No. 25742/2018 - FOR CLARIFICATION/DIRECTION)

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

(IA No.6312/2018 - FOR CLARIFICATION/DIRECTION)

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

(IA No.25842/2018 - FOR APPROPRIATE ORDERS/DIRECTIONS)

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

(IA No.14915/2018 - FOR CLARIFICATION/DIRECTION)

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

(IA No.84512/2020 - FOR APPROPRIATE ORDERS/DIRECTIONS)

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

(IA No.77919/2020 - FOR EXEMPTION FROM FILING TYPED DOCUMENTS; and, IA No. 77918/2020 - FOR ORDERS/DIRECTIONS)

Date : 21-09-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

Counsel for the Parties:

Mr. R. Venkataramani,  
Senior Advocate (Court Receiver)

Mr. Pavan Aggarwal, Forensic Auditor  
Mr. Ravinder Bhatia, Forensic Auditor

Mr. M. L. Lahoty, Adv.  
Mr. Paban K Sharma, Adv.  
Mr. Anchit Sripat, Adv.  
Mr. Himanshu Shekhar, AOR

Mr. Joy Basu, Sr Adv  
Mr. Kanak Bose, Adv  
Mr. Varun Sarin, Adv  
Mr. Ashok Mathur, AOR

Mr. Gopal Sankarnarayanan, Sr. Adv.  
Mr. Raj Kamal, AOR  
Mr. DK Sharma, Adv.  
Mr. Maheen Pradhan, Adv.  
Mr. Aseem Atwal, Adv.  
Mr. Kartavya Batra, Adv.

Ms. V. Mohana, Sr. Adv.  
Mr. Mukul Singh, Adv.  
Mr. Prashant Singh, Adv.  
Ms. Anil Katiyar, AOR

Mr. Sanjay Hegde, Sr. Adv.  
Mr. Prashant Shukla, Adv.  
Mr. Abhinav Ramkrishna, Adv.

Mr. Siddhartha Dave, Sr. Advocate  
Mr. Gudipati G. Kashyap, Adv.  
Ms. Apoorva Pandey  
Ms. T. Archana, AOR

Ms. Geeta Luthra, Sr. Adv.  
Mr. Manoj Singh, Adv.  
Mr. Sanjay Kumar Visen, AOR

Mr. V.K. Shukla, Sr. Adv.  
Ms. Sukriti Chauhan, Adv.  
Mr. Ayush Kumar, Adv.  
Ms. Manju Jetley, AOR

Ms. Rukhmini Bobde, Adv.  
Mr. Aviral Kapoor, Adv.  
Ms. Riya Dhingra, Adv.  
Mr. Vishal Prasad, AOR

Mr. Mukul Singh, Adv.  
Mr. Prashant Singh, Adv.  
Mr. B.K. Prasad, Adv.

Mr. Vibhu Shankar Mishra, Adv.  
Mr. Mukul Singh, Adv.  
Mr. B V Balaram Das, AOR

Mr. Mukul Singh Adv  
Mr. Vikrant Yadav Adv  
Mr. Prashant Singh, Adv.  
Mr. Vibhu Shanker Mishra Adv  
Mr. R.R. Rajesh Adv  
Mr. Raj Bahadur Yadav, AOR

Mr. Niraj Gupta, AOR  
Md. Fuzail Khan, Advocate  
Mr. Anshu Gupta, Adv.

Mr. Rahul Malhotra, Adv.  
Ms. Himanshi Madan, Adv.  
Mr. Rajesh P., AOR

Mr. Ramesh Babu M. R., AOR  
Ms. Manisha Singh, Adv.  
Ms. Nisha Sharma, Adv.

Mr. Shubham Bhalla, AOR  
Mr. Deepak Samota, Adv.  
Mr. Vijay Kumar Diwedi, Adv.

Mr. Keshav Mohan, Adv  
Mr. R.K Awasthi, Adv  
Mr. Prashant Kumar, Advocate  
Mr. Piyush Vatsa, Adv.  
Mr. Santosh Kumar - I, AOR

Mr. Mohit Chaudhary, Adv.  
Ms. Puja Sharma, Adv.  
Mr. Kunal Sachdeva, Adv.  
Mr. Shyam Singh Yadav, Adv.  
Mr. Imran Ali, Adv.  
Mr. Balwinder Singh Suri , Adv.  
Mr. Parveen Kumar, Adv.  
Ms. Garima Sharma, Adv.  
for Kings & Alliance, AOR

Mr. Janender Kumar Chumbak, Advocate  
Ms. Radhika, Adv.  
Ms. Amita Singh Kalkal, AOR

Mr. Gautam Das, AOR  
Mr. C.M. Gopal, Adv.  
Mr. Sunil Kumar Sethi, Adv.  
Mr. Lalit Rana, Adv.  
Mr. Vandana M. Berata, Adv.  
Mr. Siddhartha Das, Adv.

Mr. Arpit Rai, Adv  
Mr. Aviral Kashyap, AOR  
Ms. Vimal Sinha, Adv.  
Mr. Sanjeev Prakash Upadhyaya, Adv.

Mr. Saurabh Mishra, Adv.  
Ms. Bishwajit Dubey, Adv.  
Ms. Srideepa Bhattacharyya, Adv.  
Ms. Sanskriti Sidana, Adv.  
Mr. Sumit Attri, Adv.  
for Cyril Amarchand Mangaldas, AOR

Ms. Shuchi Singh, Adv.  
Mr. Krishna Kant Dubey, Adv  
Mr. Sanjay Kumar Dubey, AOR  
Mr. Rakesh Kumar Tewari, Adv.

Ms. Astha Sharma, AOR  
Mr. Sahil Sethi, Adv.  
Mr. Shivam Shrama, Adv.  
Ms. Mantika Haryani, Adv.

Mr. Abhigya, AOR  
Mr. Pradeep Kumar Dubey, Adv.  
Mr. Siddharth Rajkumar Murarka, Adv.  
Ms. Sunita Yadav, Adv.  
Ms. Anamika Kushwaha, Adv.  
Ms. Nandita Rao, Adv.  
Ms. Mahija Reddy, Adv.  
Mr. K. N. Agnihotri, Adv.

Mr. Pradhuman Gohil, Adv.  
Ms. Taruna Singh Gohil, AOR  
Ms. Ranu Purohit, Adv.  
Ms. Tanya Srivastava, Adv.  
Mr. Upendra Sai, Adv.  
Ms. Jasleen Bindra, Adv.  
Ms. Riya Chopra, Adv.

Mr. Prakash Kumar Singh, AoR  
Dr. Brij Bhushan K . Jauhari  
Ms. Purnima Jauhari, Adv,  
Mr. Harsh Mahan , Adv.  
Mr. O.P. Singh, Adv.

Mr. Ashok Kumar Singh, AOR  
Mr. Naresh Kumar Gaur, Adv.  
Mr. Vikram Jain, Adv.  
Ms. Pragya Singh, Adv.  
Mr. Shantwanu Singh, AOR

Mr. Divyakant Lahoti, AOR  
Mr. Parikshit Ahuja, Adv.  
Ms. Praveena Bisht, Adv.  
Ms. Vindhya Mehra, Adv.  
Ms. Madhur Jhavar, Adv.  
Mr. Kartik Lahoti, Adv.

Mr. Kaushal Yadav, AOR  
Mr. Nandlal Kumar Mishra, Adv.  
Dr. Sanjay Gupta, Adv.  
Mr. Pramod Kumar, Adv.  
Dr. Ajay Kumar, Adv.

Mr. Ram Ekbal Roy, Adv.  
Ms. Priyanka Das, Adv.  
Ms. Neha Das, Adv.  
Mr. Binay Kumar Das, AOR

Mr. Ranjan Kumar Pandey, AOR  
Mr. Sandeep Bisht, Advocate  
Mr. Anuj Tiwari, Advocate  
Mr. Shikhar Shrivastava, Advocate

Mr. Rabin Majumder, AOR  
Ms. Akansha Srivastava, Adv.  
Mr. Joydeep Mukherjee, Adv.  
Mr. Nand Ram, Adv.

Mr. Pradeep Misra, AOR  
Mr. Daleep Dhyan, Adv.  
Mr. Suraj Singh, Adv.

Mr. Dheeraj Nair, AOR  
Mr. Kumar Kislai, Advocate  
Ms. Vishrutyi Sahni, Advocate

Mr. A.C.Mishra, Adv.  
Ms. Nipun Sharma, Adv.  
for ACM Legal, AOR

Ms. Garima Prashad, AOR  
Mr. Abhitosh Pratap Singh, Adv.

Mr. Amit Kumar, Adv.  
Mr. Avijit Mani Tripathi, AOR

Mr. Sanjay Kapur, AOR  
Ms. Megha Karnwal, Adv.

Mr. Avneesh Arputham, AOR  
Ms. Anuradha Arputham, Adv.

Mr. Sanjoy Kumar Ghosh, Advocate  
Ms. Rupali Samanta Ghosh, AOR

Mr. Chandra Prakash, Adv.  
Mr. Rahil Sharan, Adv.

Ms. Sakshi Banga, Advocate  
Mr. Anas Tanwir, AOR

Mr. Harish Pandey, AOR  
Mr. Alok Kumar Pandey, Adv.

Mr. Devender Kumar Singh, Adv.  
Mr. Karunakar Mahalik, AOR

Ms. Richa Kapoor, AOR  
Mr. Shalya Agarwal, Adv.

Ms. Indrani Mukherjee, Adv  
Ms. Tatini Basu, AOR

Mr. Deepali Dwivedi, Adv.  
Mr. Fuzail Ahmad Ayyubi, AOR

Mr. Umesh Kr. Khaitan, AOR

Mr. Rohit Kumar Singh, AOR

Mr. Abhishek Agarwal AOR

Ms. Arti Singh, AOR

Mr. Ram Lal Roy, AOR

Mr. Tahir Ashraf Siddiqui, AOR

Ms. Kirti R. Mishra, AOR

Mr. B.K. Satija, AOR

Mohd. Sadique T. A., AOR

Mr. Anand Varma, AOR  
Mr. E.C. Vidyasagar, AOR  
Mr. Gaurav Goel, AOR  
Ms. Hima Lawrence, AOR  
Mr. Satish Pandey AOR  
Mr. Arvind Gupta, AOR  
Mr. Shovan Mishra, AOR  
Mr. Braj Kishore Mishra, AOR  
Mr. Shardul Shroff, AOR  
Ms. Anisha Upadhyay, AOR  
Mr. Abhinav Shrivastava, AOR  
Ms. E. R. Sumathy, AOR  
Mr. Aniruddha P. Mayee, AOR  
Mr. Vivek Narayan Sharma, AOR  
Ms. Shobha Gupta, AOR  
Mr. Balraj Dewan, AOR  
Mr. Rohit Amit Sthalekar, AOR  
Mr. Manish Kumar Saran, AOR  
Mr. Abhimanue Shrestha, AOR  
Ms. Taruna Singh Gohil, AOR  
Mr. Jasmeet Singh, AOR  
Ms. Anindita Roy Chowdhury Advocate  
Mr. Sayobani Basu, Advocate  
Ms. Urvashi Misra, Advocate  
Mr. Anis Ahmed Khan AOR

Mr. Talha A Rahman, AOR  
Mr. Aman Gupta AOR  
Ms. Mayuri Raghuvanshi, AOR  
Mr. Ambhoj Kumar Sinha, AOR  
Mr. Chandan Kumar, AOR  
Mohd. Sadique T.A., AOR  
Mr. Kailash Prashad Pandey, AOR  
Mr. Abdul Azeem Kalebudde, AOR  
Mr. Shadan Farasat, AOR  
Mr. Gopal Jha, AOR  
Mr. Vishal Gupta, AOR  
Mr. A. P. Mohanty, AOR  
Mr. G. Balaji, AOR  
Ms. Jasmine Damkewala, AOR  
Ms. Sangeeta Singh, AOR  
Mr. Sayaree Basu Mallik, AOR  
Mr. Naresh Kumar, AOR  
Mr. Prithvi Pal, AOR  
Ms. Pallavi Pratap, AOR  
Mr. Akhilesh Kumar Pandey, AOR  
Ms. Rakhi Ray, AOR  
Mr. Badri Prasad Singh, AOR  
Mr. Dharmendra Kumar Sinha, AOR  
Mr. Balaji Srinivasan, AOR  
Mr. Rajesh Kumar Gupta, AOR  
Mr. Mukesh Kumar Maroria, AOR

Mr. Himanshu Tyagi, AOR  
Mr. Sukant Vikram, AOR  
Ms. Swarupama Chaturvedi, AOR  
Mr. Joby P. Varghese, AOR  
Ms. Prerna Mehta, AOR  
Ms. Gargi Khanna, AOR  
Mr. Roopansh Purohit, AOR  
Mr. Christopher Dsouza, AOR  
Mr. E. C. Vidya Sagar, AOR  
Ms. Lalita Kaushik, AOR  
Mr. Sarvam Ritam Khare, AOR  
Mr. Sudhansu Palo, AOR  
Ms. Anubha Agrawal, AOR  
Mr. Sunny Choudhary, AOR  
Ms. Chandan Ramamurthi, AOR  
M/s. D.S.K. Legal, AOR  
Mr. S. K. Verma, AOR  
Mr. Kumar Dushyant Singh, AOR  
Ms. Dharitry Phookan, AOR  
Mr. Arun K. Sinha, AOR  
Mr. Ritesh Agrawal, AOR  
Mr. Kedar Nath Tripathy, AOR  
Mr. Abhijit Sengupta, AOR  
Mr. Arup Banerjee, AOR  
Mr. Pramod Dayal, AOR  
Ms. Usha Nandini V, AOR

Ms. Mridula Ray Bharadwaj, AOR  
Ms. Astha Sharma, AOR  
Mr. Niraj Gupta, AOR  
Mr. Annam D. N. Rao, AOR  
Ms. Shalu Sharma, AOR  
Mr. Somesh Chandra Jha, AOR  
Ms. Suruchii Aggarwal, AOR  
Mr. Ejaz Maqbool, AOR  
Mr. Vishnu Sharma, AOR  
Mr. Aviral Kashyap, AOR  
Mr. Satyajeet Kumar, AOR  
Mr. Syed Mehdi Imam, AOR  
Mr. Prakash Ranjan Nayak, AOR  
Ms. Bharti Tyagi, AOR  
Ms. Anindita Pujari, AOR  
Mr. Sibho Sankar Mishra, AOR  
Mr. Shakil Ahmed Syed, AOR  
Mr. G. N. Reddy, AOR  
Mr. Kaushik Choudhury, AOR  
Mr. Aakarshan Aditya, AOR  
Mr. Mushtaq Ahmad, AOR  
Mr. Shree Pal Singh, AOR  
Mr. Malak Manish Bhatt, AOR  
Mr. Dhananjay Garg, AOR  
Mr. Brijesh Kumar Tamber, AOR  
Mr. Sanand Ramakrishnan, AOR

Sayaree Basu Mallik, AOR  
Mr. Pawanshree Agrawal, AOR  
Mr. Nitish Massey, AOR  
Mr. Chandra Prakash, AOR  
Mr. Somiran Sharma, AOR  
Ms. Vandana Sehgal, AOR  
Mr. Sureshan P., AOR  
Ms. Misha Rohatgi, AOR  
Mr. Rakesh Kumar-I, AOR  
Mr. Ajit Sharma, AOR  
Ms. Anisha Upadhyay, AOR  
Ms. Anannya Ghosh, AOR  
Ms. Veera Kaul Singh, AOR  
Mr. Mohit D. Ram, AOR  
M/s. V. Maheshwari & Co., AOR  
Mr. Prem Prakash, AOR  
Mr. Balraj Dewan, AOR  
Mr. K. Paari Vendhan, AOR  
Mr. Tejaswi Kumar Pradhan, AOR  
Mr. T. Mahipal, AOR  
Atishi Dipankar, AOR  
Ms. Praveena Gautam, AOR  
Mr. Ashwarya Sinha, AOR  
Ms. Jasmine Damkewala, AOR  
Mr. Vipin Kumar Jai, AOR  
Mr. Raj Singh Rana, AOR

Ms. Indra Sawhney, AOR  
Dr. Nafis A. Siddiqui, AOR  
Ms. Mona K. Rajvanshi, AOR  
Ms. Pallavi Pratap, AOR  
Mr. Sudhir Naagar, AOR  
Mr. Purvish Jitendra Malkan, AOR  
Mr. Vinay Arora, AOR  
Mr. Anoop Prakash Awasthi, AOR  
Mr. D. S. Chauhan, AOR  
Ms. Sujata Kurdukar, AOR  
Mr. Rajesh Mahale, AOR  
Mr. Anil Kumar Mishra-I, AOR  
Mr. Varinder Kumar Sharma, AOR  
Mr. Sumit Sinha, AOR  
Mr. Somanatha Padhan, AOR  
Mr. Ravindra Sadanand Chingale, AOR  
Mr. M. M. Kashyap, AOR  
Mr. Naveen Kumar, AOR  
Mr. Ashwani Bhardwaj, AOR  
Ms. Charu Ambwani, AOR  
Ms. Charu Mathur, AOR  
Mr. Udit Singh, AOR  
Mr. Kumar Mihir, AOR  
Mr. Rishi Matoliya, AOR  
Mr. Aneesh Mittal, AOR  
Mr. Kabir Dixit, AOR

Mr. Sanchit Garga, AOR  
Mr. O. P. Gaggar, AOR  
Ms. Rashmi Singh, AOR  
Mr. Gaichangpou Gangmei, AOR  
Mr. Neeraj Shekhar, AOR  
Ms. Kamakshi S. Mehlwal, AOR  
Mr. Sanjai Kumar Pathak, AOR  
Mr. Rajat Mittal, AOR  
Mr. Gaurav, AOR  
Mr. Smarhar Singh, AOR  
M/s. Dharmaprabhas Law Associates, AOR  
Mr. Nikilesh Ramachandran, AOR  
Ms. Rajkumari Banju, AOR  
Mr. M. T. George, AOR  
Mr. Siddhartha Jha, AOR  
Mr. Praveen Jain, AOR  
Mr. Anil K. Chopra, AOR  
Mr. S. R. Setia, AOR  
Ms. Kirti Renu Mishra, AOR  
Mr. Rajiv Raheja, AOR

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

**I. DIRECTION TO RESERVE BANK OF INDIA:**

The Note circulated by the learned Receiver dealing with the subject "Direction to RBI", makes reference to the order dated 01.09.2020 which gave liberty to the learned Receiver to enter into

communication with Reserve Bank of India. The intervention of the RBI is principally sought for following reason:

"The request for intervention by RBI has been made, in view of the experience gained by the Committee, with their meetings with several banks, both on the subject of home loans to Home Buyers as well as project funding. Many banks seem to be reluctant to move forward on the subject of project funding, apparently because of regulatory instructions from RBI. As it is, unless a clear lead is given by RBI and specific instructions or advisory notes are issued by them, the responses from banks in regard to the project funding will be both slow and uncertain."

The learned Receiver wrote to the Reserve Bank of India on 08.09.2020 requesting *inter alia*:

"21. This is my earnest appeal your good self to consider issuing necessary clearances/relaxations, if any that may be required by each bank and advise and instruct the concerned Banks to expeditiously act on the basis of the relevant projects profile and information already and separately made available to them.

22. For your kind information almost all the banks, which have extended home loans to the Amrapali home buyers are in regular interaction with us. Your intervention will definitely facilitate and quicken the process.

23. I am enclosing a "Project information report" prepared for providing a total view of these projects. I will be happy to provide any further inputs."

In response, it was stated by the General Manager, Reserve Bank of India:

"... Accordingly, sufficient flexibility is already available to the lenders to restructure and extend additional finance to viable but stressed accounts including those classified as NPA. Hence, the extant regulations already permit formation of consortium and funding of the Amrapali projects."

A further communication was thereafter addressed by the learned Receiver on 17.09.2020 which has not yet been replied by the Reserve Bank of India.

We have heard the learned Receiver and Mr. Ramesh Babu M.R., learned Advocate appearing for the Reserve Bank of India.

Mr. Babu submitted that an appropriate affidavit disclosing the stand of the Reserve Bank of India shall be placed on record before the next date of hearing so that the relationships with the Banks could then be well instructed and guided.

List the matter on 05.10.2020.

## **II. CONCERNING SALE AND AUCTION OF AMRAPALI ASSETS:**

The learned Receiver submits that the Committee and the MSTC will jointly prepare a plan of action for sale and auction of the concerned properties and by next date of hearing, the Plan of Action will be placed before the Court for its perusal.

Let a Note in that behalf be submitted before the next date of hearing.

It must be stated that the Status Report filed by MSTC indicates that five properties have been auctioned in three tranches of auctions held in January 2020, February 2020 and July 2020 and the aggregate realizable value would be in the region of more than Rs.12 Crores.

Let details in that behalf be placed before the next date of hearing.

The Status Report also indicates that the MSTC will conduct the auction for sale of 85 cars referred in para 14 of its Status Report.

Let the Committee and the MSTC devise the methodology to sell the Cars as early as possible.

### III. MATTERS CONCERNING EXECUTION OF PROJECTS BY NBCC

The learned Receiver has highlighted that in six projects undertaken by NBCC, large number of home-buyers have already been in possession of their respective apartments/flats for around 6 to 10 years and the Association of Residents are requesting NBCC to take care of some of the unfinished work and/or jobs required by way of maintenance and repairs.

The learned Receiver in his Note has suggested:

"Having regard to what appears to be a common concern, NBCC may be authorised to execute these additional items of works (which are not part of scheduled items of work to be executed by them or their contractors) subject to assessment of additional expenditure and that the expenditure shall be borne by SWA/RWA/AOA and individual residents."

The learned Receiver has invited our attention to Annexure 'B' and stated that NBCC has no objection to take care of such additional works which would be completely independent of the task assigned to NBCC by this Court.

NBCC has been given a specific task to complete the unfinished projects and therefore the apprehensions are; first, it may not be proper to expand the scope of said task; and, *secondly*, NBCC should not be overburdened with other jobs, lest the infrastructure and attention of NBCC get diverted from the main issues.

Mr. Siddhartha Dave, learned Senior Counsel appearing for NBCC has, however, assured the Court that by taking up the assignments referred to in Paragraph 4 of the Note of the learned Receiver, NBCC will not in any way get overburdened, but it must be clarified that these additional items of work are not part of the tasks assigned by this Court to NBCC, and the jobs will be completed by NBCC on such agreed terms and conditions including appropriate charges to be levied by NBCC.

Since NBCC is not averse to the proposal, the Court has no objection and we permit NBCC to enter into any such arrangement with the flat buyers for undertaking such jobs. It is made clear that those jobs are completely outside the scope of the task assigned to NBCC and the expenses in that behalf shall be borne by the Association of the Flat Buyers and the Home-Buyers shall extend full cooperation in seeing to it that NBCC completes the projects at the earliest.

#### IV. In Re: SBI CAPS

The learned Receiver has submitted that though the Court has permitted the funding by SBI CAPS to the tune of Rs.625/- Crores through "Special Window for Affordable and Mid-Income Housing" (SWAMIH), the matter is not yet finalized. The learned Receiver has submitted that one round of discussions have taken place and he is confident that before the next date of hearing, the arrangement would be finalized.

V. In Re: RATE OF INTEREST

While dealing with the subject concerning rate of interest to be realised on outstanding dues by NOIDA and Greater NOIDA, this Court in its order dated 10.06.2020 had observed as under:

"39. It cannot be disputed that the rate of interest, on which agreements were entered into, has gone down by now. The present lending rate is much below and the RBI has taken several steps to revive the economy. In such a scenario, it would never be possible to make payment of interest at the rate fixed by authorities and also a penal interest to be realised by concerned authorities. The home buyers are not able to obtain fruits of the investment and are deprived of legal title of the flats.

x x x

42. Considering the current state of real estate, the projects are standstill, and in order to give impetus to such housing projects and mainly considering plight of home buyers and as appointed out by NOIDA and Greater NOIDA Authorities that 114 plots were allotted from 2005 onwards, most of projects are incomplete; we direct that rate of interest on the understanding premium and other dues to be realized in all such cases at the rate of 8% per annum and let the NOIDA and Greater NOIDA Authorities do a restructuring of the repayment schedule so that amount is paid and NOIDA and Greater NOIDA Authorities are able to realize the same. As to reasonable time frame, we would like to hear the parties, in case of failure to pay, the concession granted shall stand withdrawn. However, at the same time, the NOIDA and Greater NOIDA Authorities shall also ensure that not only instalments/money are deposited, but also all such projects are completed within the stipulated time."

Later, said order dated 10.06.2020 on the aforesaid issues was clarified/modified by further orders dated 10.07.2020, 13.08.2020 and 25.08.2020.

It appears that large number of applications are getting preferred by builders/developers who are not connected with Amrapali projects, seeking *inter alia* implementation or

clarification or praying for further benefits. Our experience on last few occasions has been that these applications take up considerable length of time, as a result of which the main matters or the issues touching upon the completion of Amrapali projects get sidelined. We, therefore, direct that hereafter the Registry shall not entertain and list before the Bench dealing with Amrapali projects, any application on the issue concerning rate of interest to be charged on the outstanding dues to NOIDA/Greater NOIDA and any other allied subjects from the Builders/Developers who are not connected with Amrapali projects. All the Interlocutory Applications by the Builders/Developers are therefore disposed of without any orders but reserving the remedy to the concerned applicants to take appropriate action as is open in law.

#### VI. RELATED ISSUES

The learned Receiver has also suggested:

- "1) It has come to the notice of the Receiver that some commercial agencies are involved in offering to purchase the existing allotments of Home Buyers in exchange of allotments in projects other than Amrapali. These kinds of intervention are likely to create uncertainty and disturbance in unhindered execution of the projects. The Court may therefore, issue a direction that no such exchange offers, will be received and acted upon by Amrapali Home Buyers.
- 2) In the context of registration of the Tripartite Deed, the Receiver has received requests from several sets of Home Buyers/Allottees, whose projects are not in Noida or in Greater Noida. Few such cases are projects in Indrapuram, Ghaziabad. Liberty may be given to the Receiver to get Tripartite Deed/Sale Deed/Conveyance deed, executed in all other Amrapali projects which are completed and ready for verification.

The registration will happen subject to verification of the credentials of Home Buyers/Allottees and payments of outstanding amounts.

- 3) In the previous note, references have been made to defaulting Home Buyers, who are identified by the Forensic Auditors being in default even prior to Forensic Auditors report. It is found that large numbers of them continue to be in default. Liberty be given to the Receiver to publish the list of the such people and time be granted to them for payment of all their dues before 31<sup>st</sup> October, 2020. Persons, who may be in default thereafter, or without reaching out to the office of the Receiver, can thereafter be considered as cancelled allotments.
- 4) At pages 160-164 of the Judgment dated 23.07.2019, the Forensic Auditors have given a list of properties under Category-C. According to them these properties can be released subject to necessary outstanding payment be made by respective parties. Directions may be issued to parties in Category-C that they shall deposit the sums found to be due from them, in the UCO Bank, in such terms, as may be directed by the Hon'ble Court.
- 5) Suggestion is also made, as stated in regard to streamlining of the Schedule of hearings that applications filed by any developers or builders or which have connection or concern with the progress of the Amrapali projects, be declined with the liberty to pursue appropriate remedy."

PARA NO.1

It is suggested that "Pre-Registration Transfer" of existing allotments be permitted on the same lines as was being permitted by Amrapali and subject to the approval from the Committee.

Mr. Ravindra Kumar, learned Advocate for NOIDA and Greater NOIDA submitted that permission of the Authorities may also be obtained.

In our view, at "Pre-Registration Stage", the permission of NOIDA or Greater NOIDA in the present projects need not be insisted upon. After the approval is granted or accorded by the

Committee, the transfer shall be taken to have been accepted. The Committee shall, however, ensure clearance of all the dues before any such transfer, at pre-registration stage, is permitted or accepted.

**PARA NO.2**

Liberty as prayed for is granted. The learned Receiver may enter into Tripartite Deed/Sale Deed/Conveyance Deed with respect to the properties situated at places other than NOIDA or Greater NOIDA and such Registration shall be subject to verification of the credentials of the home-buyers/allottees and payments of outstanding amounts.

**PARA NO.3**

It is clarified that all defaulting Home-Buyers as identified by the Forensic Auditors, must pay up their outstandings on or before 31.10.2020 failing which the learned Receiver shall be entitled to take appropriate steps for cancellation of their allotments.

**PARA NO.4**

We request the learned Receiver to give suggestions to streamline the schedule of hearings so that the matter progresses steadily and without the attention of the Court getting diverted from the main issues.

**PARA NO.5**

The issue has already been dealt with.

**VII. NOTE SUBMITTED BY MR. M.L. LAHOTY, ADVOCATE**

Mr. M.L. Lahoty, learned Advocate appearing for Home-Buyers has submitted a Note which encompasses various issues. It is stated that going by the Project Brief Summary submitted by the learned Receiver on 22.05.2020, NBCC would require an amount of Rs.8,016.88 crores to complete the projects left unfinished by Amrapali.

The Note then suggests modalities in which the required amount could be recovered and some of the suggested modes are:-

- I. Recovery from sale of Flats and Commercial Units.
- II. Recoveries in the sum of 1,025.78 Crores mainly from Prem Mishra of Indore and Surekha Family.
- III. Recovery in the sum of Rs.912.72 crores from Directors/CF0 Chander Wadhwa and Others.

In addition, it is submitted by Mr. Gopal Sankaranarayanan, learned Senior Advocate that the land initially meant for HEARTBEAT CITY PROJECT-III was hived off and given to two developers namely, Mahagun and ACE and that said property was bought using the funds deposited by Home-Buyers; and, therefore, the consideration received or to be received in respect of these hived off parts must also enure to the advantage of the home-buyers.

It is submitted by Mr. Gopal Sankaranarayanan, learned Senior Advocate and Mr. M.L. Lahoty, learned Advocate that initially no directions were passed in respect of HEARTBEAT City Projects-I & II and as the matter was still engaging the attention of the Court, these projects were not made over to NBCC; and now that the issues have attained clarity and finality, these projects must also be handed over to NBCC.

The learned Receiver has submitted that he will study the Note prepared by Mr. M.L. Lahoty, and will respond before the next date of hearing. As regards the suggestion made with regard to inclusion of HEARTBEAT City Projects I & II, the learned Receiver may also clarify before the next date of hearing.

List these matters on 5.10.2020.

VIII. I.A. No.90985/2020 and I.A. No.74385/2020

These applications are preferred by Mr. Prem Mishra seeking certain reliefs which in the opinion of the learned Receiver are quite premature at this stage. We accept the suggestion of the learned Receiver and direct that the matters be listed on 26.10.2020.

The learned Receiver may, before the next date of hearing, place his submissions with regard to these applications.

The learned Receiver also submits that all the applications where certain reliefs are claimed by the persons who had booked properties which were to be sold or constructed by Amrapali should be taken up after some progress in the matters is attained. The Receiver shall indicate as to the time schedule that the Court may undertake in these matters.

IX. I.A. No.15119 of 2020

Mr. Pramod Dayal, learned Advocate for the Institute of Chartered Accountants of India submits that in pursuance of liberty granted on the last occasion, the Institute shall issue a Show-Cause Notice to Mr. Anil Mittal, which will indicate the timeline for initiation and completion of proceedings. Based on the timeline

so indicated, appropriate directions will thereafter be passed by the Court to ensure presence and participation of Mr. Anil Mittal in the disciplinary proceedings to be initiated by the Institute.

List the matter after two weeks.

X. I.A. No.1023/2020 and I.A. No.77651/2020

Pursuant to the directions issued on the last occasion, an Affidavit of Undertaking sworn by Mr. Sushil Kumar Goyal, Asstt. Vice-President, Accounts & Finance of M/s. Mahagun Real Estate Pvt. Ltd. ('the applicant', for short) has been filed in this Court. Appended to the affidavit is certified true copy of the Resolution passed by the Board of Directors of the applicant on 10.09.2020. The affidavit states as under:

- "3. Pursuant to the above order, I state that the abovementioned conditions for the purpose of granting the Applicant an extension of time to make deposit of Rs.240 crores, are most humbly accepted by the Applicant herein, and the contents of the said conditions reproduced above may be treated as part and parcel of the present affidavit.
4. For the sake of completeness, I reiterate that the Applicant undertakes that the amount of Rs.240 Crores will be deposited as follows:
  - a. Rs.35 Crores will be deposited by the Applicant with the Registry of this Hon'ble Court by 31.10.2020; and
  - b. Further sum of Rs.65 Crores will be deposited with the Registry of this Court by the Applicant by 31.12.2020; and
  - c. The rest of the amount i.e. Rs.140 Crore, along with interest @ 9.25% p.a. will be deposited with the Registry of this Hon'ble Court by 31.03.2021.
5. I submit that the Applicant undertakes that, in case the first instalment of Rs.35 crore is not deposited by 31.10.2020, the benefit conferred upon the Applicant by virtue of order dated 28.07.2020 shall

stand withdrawn, and the property will be available to NOIDA for further process including fresh auction.

6. I further state that the Applicant undertakes that if, after having paid Rs.35 Crore towards the first installment, the next two instalments are not paid within the time stipulated, from and out of the amount of first instalment, Rs.10 Crore will stand forfeited, and the remaining sum of Rs.25 Crore will be returned to the Applicant. In such an eventuality, the benefit conferred by the Order dated 28.07.2020 shall stand withdrawn.
7. I say that the Applicant undertakes that it is only when the entire amount of Rs.240 Crore, along with interest @ 9.25% p.a. with transfer charges as indicated by NOIDA are cleared by the Applicant, that the Applicant will be entitled to create any interest or charge in favour of any bank or financial institution.
8. I further state that as per the order of this Hon'ble Court dated 07.09.2020, the applicant will be entitled to the remainder of the period under the original lease.
9. I further state that the present affidavit, accepting the aforesaid conditions provided in the order of this Hon'ble Court dated 07.09.2020, is being filed along with a copy of the Resolution of the Board of Directors of the Applicant to the same effect, dated 10.09.2020, which is filed herewith as Annexure-A. The same may be read as part and parcel of the present affidavit as if specifically sworn herein."

The affidavit is taken on record and the applicant shall be bound by the terms of said Affidavit of Undertaking.

IA No.1023 of 2020 and IA No.77651 of 2020 be listed in the first week of November, 2020.

**XI. I.A. No.77918/2020 and I.A. No.77919/2020**

The present applications are filed seeking following reliefs:

- "a. Pass an appropriate order and or direction for the Trial Courts below to proceed with trial in accordance with law, without being influenced by the findings and or observations recorded in order of this Hon'ble Court dated 23.07.2019; and

- b. Pass an appropriate order/directions in respect with complaint cases mentioned in Annexure (Table)-R/2 annexed herewith for scrutiny of the complainant's claim, as complainant in the said cases despite being in receipt of substantial amount against their investment have filed private complaint cases U/s 138 NI Act on the basis of security cheques issued against investment and are further claiming rights in residential units in different projects as home buyers; and
- c. Grant stay in respect with complaint cases filed under Section 138 NI Act, 1881 as detailed in Annexure (Table)-R/3 & annexure (Table)-R/4 annexed herewith, which were instituted after issuance of 'moratorium' by NCLT and freezing of bank accounts of 40 Companies of Amrapali Group by this Hon'ble Court, as proceedings under Section 138 of the NI Act could not have been instituted; and
- d. Allow the present application and direct the Suptd. of Central Jail No.11, Mandoli, Delhi to release the petitioner on furnishing of personal bond along with an undertaking of applicant only in respect with complaint cases filed u/s 138 NI Act in which respondent is lodged in jail pursuant to production warrant issued by Courts as detailed in Annexure -R/6, if detention of respondent is not required in connection with any other case."

Heard Ms. Geeta Luthra, learned Senior Advocate in support of the applications.

We cannot grant the reliefs as prayed for, since the matters are pending consideration before the appropriate Courts/Authorities. All that can be said is that at every stage and at every juncture, the matter shall be considered by the concerned Court/Authority strictly in accordance with law.

**XII. I.A. No.89379/2020**

Issue notice, returnable on 05.10.2020.

Mr. Ravindra Kumar, learned Advocate appearing for the Greater NOIDA Industrial Development Authority accepts notice. He prays for and is granted a week's time to respond to the application.

Rejoinder, if any, be filed within a week thereafter.

#### **XIII. In Re: CATEGORY 'C' PROPERTIES**

It must be stated here that in the judgment dated 23.07.2019, Category 'C' properties were dealt with at Page 161 onwards and the Tabular Chart at Page 163 noted 11 such properties.

Mr. Pavan Aggarwal and Mr. Ravinder Bhatia, learned Forensic Auditors submit that Category 'C' properties were those in respect of which there was no suggestion of any underpricing or any other objection. In the circumstances, we direct that the properties listed in Category 'C' at Pages 163-164 of the judgment dated 23.07.2019 will be free of attachment if the concerned allottees make all the payments which are due from them. It is clarified that the attachment shall stand lifted and the properties will be free of any process of Court, the day the outstanding dues are cleared by the concerned Allottees.

#### **XIV. CLOSURE OF PENDING INTERLOCUTORY APPLICATIONS**

Instant Writ Petitions and connected matters are pending consideration before this Court since 2017 and large number of interim applications have been preferred by individual Home-Buyers or claimants seeking various reliefs. With the passage of time and with various directions having been issued by this Court from time to time, most of the grievances highlighted through these interim applications already stand taken care of. However, these

applications are still pending on record. It appears that none of the learned Advocates are pressing those applications for hearing or relief.

We, therefore, direct that all pending interim applications (except the applications filed by Banks/Financial Institutions and except where notices have been issued by this Court), shall stand closed. However, in case any applicant feels that his cause is still surviving and grievance needs to be addressed, liberty is granted to such applicant(s) to file fresh interlocutory application with an advance copy to the learned Receiver.

(INDU MARWAH)  
COURT MASTER

(MUKESH NASA)  
COURT MASTER

(PRADEEP KUMAR)  
BRANCH OFFICER