

ITEM NOS.301

COURT NO.5

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(s)(Civil) No(s). 940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 6608/2018 - CLARIFICATION/DIRECTION IA No. 125860/2018 - CLARIFICATION/DIRECTION IA No. 140746/2018 - CLARIFICATION/DIRECTION IA No. 96889/2018 - CLARIFICATION/DIRECTION IA No. 138861/2018 - CLARIFICATION/DIRECTION IA No. 95273/2018 - CLARIFICATION/DIRECTION IA No. 138856/2018 - CLARIFICATION/DIRECTION IA No. 55922/2018 - CLARIFICATION/DIRECTION IA No. 137609/2018 - CLARIFICATION/DIRECTION IA No. 51806/2018 - CLARIFICATION/DIRECTION IA No. 137605/2018 - CLARIFICATION/DIRECTION IA No. 152091/2018 - CLARIFICATION/DIRECTION IA No. 130673/2018 - CLARIFICATION/DIRECTION IA No. 146057/2018 - CLARIFICATION/DIRECTION IA No. 128852/2018 - EXEMPTION FROM FILING O.T. IA No. 135815/2017 - I/A U/S 152 R/W SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 SEEKING CLARIFICATIONS IN RESPECT OF IA No. 6855/2018 - IA FOR GRANTING PERMISSION TO ACCESS THE PORTAL FACILITY IA No. 168186/2018 - INTERVENTION APPLICATION IA No. 154433/2018 - INTERVENTION APPLICATION IA No. 169415/2018 - INTERVENTION/IMPLEADMENT IA No. 135446/2018 - MODIFICATION IA No. 169613/2018 - MODIFICATION OF COURT ORDER IA No. 140269/2017 - PERMISSION TO FILE APPLICATION FOR DIRECTION IA No. 50374/2018 - VACATING STAY IA No. 143227/2018 - WITHDRAWAL OF CASE / APPLICATION)

WITH

W.P.(C) No. 947/2017 (X)
(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 100453/2017
FOR CLARIFICATION/DIRECTION ON IA 6312/2018)

W.P.(C) No. 971/2017 (X)
(FOR CLARIFICATION/DIRECTION ON IA 102714/2017)

W.P.(C) No. 942/2017 (PIL-W)
(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 100082/2017
FOR CLARIFICATION/DIRECTION ON IA 7366/2018
FOR CLARIFICATION/DIRECTION ON IA 35933/2018
FOR INTERVENTION/IMPLEADMENT ON IA 37155/2018
FOR [I/A ON BEHALF OF RESP. NO 13 SEEKING PERMISSION TO PURSUE
COMPANY APPLI. NO. 17(P.B) OF 2018 AND] ON IA 41987/2018)

W.P.(C) No. 1041/2017 (X)
(FOR ON IA 109963/2017
FOR CLARIFICATION/DIRECTION ON IA 25742/2018
FOR CLARIFICATION/DIRECTION ON IA 35467/2018
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 60314/2018
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 64019/2018)

W.P.(C) No. 1018/2017 (X)
(FOR CLARIFICATION/DIRECTION ON IA 124195/2017
FOR CLARIFICATION/DIRECTION ON IA 7355/2018,
IA No. 124195/2017 - CLARIFICATION/DIRECTION)

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

W.P.(C) No. 1144/2017 (X)
(IA FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 124701/2017)

W.P.(C) No. 1156/2017 (X)
(FOR CLARIFICATION/DIRECTION ON IA 36571/2018
FOR impleading party ON IA 64349/2018
FOR INTERVENTION/IMPLEADMENT ON IA 64349/2018)

W.P.(C) No. 1206/2017 (X)
(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 135678/2017)

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)
(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 25842/2018)

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

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

W.P.(C) No. 57/2018 (X)
(FOR CLARIFICATION/DIRECTION ON IA 64604/2018)

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

W.P.(C) No. 134/2018 (X)
(IA FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 27092/2018)

W.P.(C) No. 131/2018 (X)
(IA FOR [APPLICATION FOR STAY/DIRECTIONS] ON IA 25109/2018,)

W.P.(C) No. 160/2018 (X)
(FOR [PERM TO FILE SUBSEQUENT EVENTS ON RECORD] ON IA 56300/2018)

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

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

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

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

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

W.P.(C) No. 281/2018 (X)
(IA FOR STAY APPLICATION ON IA 48296/2018)

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

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

W.P.(C) No. 246/2018 (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)
(FOR ADMISSION and IA No.57585/2018-STAY APPLICATION)

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

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

W.P.(C) No. 829/2018 (X)
(WITH APPLN(S) FOR GRANT OF INTERIM RELIEF)

W.P.(C) No. 866/2018 (X)
(WITH APPLN(S) FOR EXEMPTION FROM FILING O.T.)

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

W.P. (C) NO.1397/2018
(WITH APPLN(S) FOR EXEMPTION FROM FILING O.T.)

Date : 14-02-2019 These matters were called on for hearing today.

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By Courts Motion, AOR
Mr. Gaurav Goel, AOR

Mr. Ravindra Kumar, AOR
Mr. Rabin Majumder, AOR
Mr. Akhilesh Kumar Pandey, AOR
Mr. Gaurav Bhatia, AOR
Mr. Ashwarya Sinha, AOR
Mr. Vishnu Sharma, AOR
Ms. Rakhi Ray, AOR
Mr. Gaurav Goel, AOR
Mr. Mukesh Kumar Maroria, AOR
M/S. Cyril Amarchand Mangaldas Aor, AOR
Mrs. Anil Katiyar, AOR
Mr. Dharmendra Kumar Sinha, AOR
Mr. Rajesh Kumar Gupta, AOR
Mr. Balaji Srinivasan, AOR
Mr. Aman Gupta, AOR
Mr. Badri Prasad Singh, AOR
Mr. Vishal Gupta, AOR

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

The learned counsel appearing for Mr. Chander Wadhwa has come up with two Manager's Cheques with the following particulars :-

- 1) Manager's Cheque No. 016803 dated 11.02.2019 drawn on HDFC Bank in the name of Drawing and Disbursing Officer, Supreme Court of India for a sum of Rs.3,10,00,000/- (Rupees Three Crores and Ten Lakhs);
- 2) Manager's Cheque No. 016789 dated 11.02.2019 drawn on HDFC Bank in the name of Drawing and Disbursing Officer, Supreme

Court of India for a sum of Rs.1,00,000,00/- (Rupees One Crore);

The learned counsel is directed to deposit the cheques with the Registrar of the concerned Section.

We have heard the learned counsel for the parties at length. Mr. M.L.Lahoty, learned counsel, in his written submissions, has pointed out that a sum of Rs. 25.08 crores is outstanding as against eight persons as per the affidavits mentioned in the following chart :-

	Name of Individual	Amount	Affidavit
1.	Paramjeet Gandhi	9.76 Crores	Pg. 36 of Affidavit dated 03.12.2018 of Swapnil Shikha
2.	Swarika Sinha (Minor) D/o of Swapnil Shikha	1.55 Crores	
3.	Raj Dulari Devi (Mother of Anil K. Sharma)	50 Lakhs	
4.	Swapnil Shikha (Director & daughter of Anil K. Sharma)	1.34 Crores	Pg. 38 of Affidavit dated 03.12.2018
5.	Shiv Priya (Director)	2.1 Crores	Page 10 of Affidavit dated 03.12.2018
6.	Anandi Singh (Minor) D/o Seema Kumari & Ajay Kumar	2.18 Crores	Pg. 5, 11, 12 of Affidavit dated 09.11.2018
7.	Madan Mohan Sharma, (Father of Anil K. Sharma)	80.79 Lakhs	Pg. 26 of Affidavit dated 03.12.2018
8.	Ram Naresh Sinha (Father of Amresh Kumar)	15 Lakhs	Page 7 of Affidavit dated 03.12.2018

It was pointed out by Mr. Lahoty that as per the report of Mr. Anil Mittal, Statutory Auditor and the affidavit dated 12.11.2018, there are certain loans and advances given to the Directors of the family members on 31.03.2015. The details are contained in paragraph VII of the written submissions :-

1.	Anil K. Sharma	Rs. 94.08 Crores
2.	Shiv Priya	Rs. 49.79 Crores
3.	Ajay Kumar	Rs. 8.57 Crores
4.	Amresh Kumar	Rs. 0.33 Crores
5.	Suvash Chand Kumar	Rs. 0.90 Crores
6.	Mohit Gupta	Rs. 0.16 Crores
7.	Nishant Mukul (Brother in law of Anil K. Sharma)	Rs. 0.12 Crores
8.	Sonali Suman (w/o Shiv Priya)	Rs. 0.55 Crores
9.	Pallavi Mishra (w/o Anil K. Sharma)	Rs. 0.07 Crores
10.	Madan Mohan Sharma (Father of Anil K. Sharma)	Rs. 2.60 Crores
11.	Sunita (w/o Sunil Kumar)	Rs. 0.01 Crores
12.	Advance to unnamed Directors of Ultra Homes Construction Pvt. Ltd.	Rs. 0.10 Crores
13.	Advance to unnamed Directors of Hi-Tech City Developers Pvt. Ltd.	Rs. 4.23 Crores
	Total	Rs. 161.51 Crores

We have heard Mr. Anil Kumar Sharma and the learned counsel appearing on his behalf with respect to the aforesaid aspects. We direct that the money which has been routed through them should be

deposited by 28th of February, 2019, failing which, it may aggravate the violation of the orders passed by this Court.

It has also been pointed out that as per the report of the Forensic Auditors dated 16.01.2019, certain monies have been invested in M/s Royal Golf Link City Projects Pvt. Ltd. out of home buyers' funds and it was also stated by the Forensic Auditors, who are present in Court today, that it appears to be the project of Amrapali Group of Companies. In the circumstances, we direct the Greater Noida Authority to furnish all the original documents in this Court, explaining as to i) who applied for allotment of the land; ii) original lease deed; and iii) who has time to time deposited the money.

Statements have been filed with respect to investment of Rs. 48.52 crores by Amrapali Group of Companies on different dates in 2014 and 2015. There are series of transactions. Let the learned counsel appearing on behalf of M/s Royal Golf Link City Projects Pvt. Ltd. also explain i) how much is the total investment made so far in the project; ii) the persons who have remained time to time on its Board of Directors; iii) file various resolutions passed right from the beginning till today. The account statement, right from the beginning till today, is also directed to be placed on record.

We have already attached various Villas of M/s Royal Golf Link City Projects Pvt. Ltd. We further direct that there should not be any alienation whatsoever to any of the properties, villas by M/s Golf Link City Projects Pvt. Ltd.

As per the report of Forensic Auditors, it is pointed out that Mr. Anil Kumar Sharma has also obtained advance for purchase of property of Rs. 6.55 Crores. We direct Mr. Anil Kumar Sharma to deposit the same by 28th of February, 2019.

It is also pointed out by the Forensic Auditors in the report dated 16.01.2019 that in Saffron Propmart Consultancy Pvt. Ltd., which is controlled by Mr. Chander Wadhwa and Mr. Anil Mittal, Statutory Auditors of the Amrapali Group of Companies, the amount is invested in the form of Fixed Deposit with HDFC Bank, Preet Vihar. Let the amount in the Fixed Deposit, along with accrued interest, be remitted to the account that has been created in this Court. The Registry is directed to send a copy of this order to the concerned Manager of the Bank. On the mandate of this order, the money shall immediately be remitted to this Court.

It is stated that there are large number of unsold residential units (5229 in number) which can be sold. It would be appropriate to find out the valuation of the units by independent valuer before they are put to sale. We appoint Mr. Satish Kumar Bhatia, BE (Civil), MIE (M-16478), Residence :- C-8/8492, Vasant Kunj, New Delhi - 110 070, Mobile No. 9891344424, Email - bhatiask31@hotmail.com, to submit the valuation report before 28th of February, 2019 and the matter will be heard in respect of the agency to be appointed for the purpose of sale. The learned counsel appearing for NBCC has pointed out that the matter has to be considered by the Management of the NBCC in case it is to be sold by NBCC. Let the NBCC consider the sale of the unsold properties and place their report before this Court by 28th of

February, 2019.

In respect of the work which has already been undertaken as per our order dated 25.01.2019, we direct Rs.1,00,00,000/- (Rupees One Crore) to be released in favour of NBCC. The NBCC will keep this amount in a separate interest bearing account, as stated by the learned counsel appearing on behalf of NBCC. Let the amount be deposited within a period of three weeks.

The Registrar of this Court is directed to issue appropriate communication to the IndusInd Bank, Sector-51, NOIDA so that the monies could be disbursed from Account No.201002234299 (IFSC Code INDB0000276) of Amrapali Hospitality Services Pvt. Ltd. in favour of the forensic auditors within seven days from today. Bank details of the forensic auditors are given hereunder:

Mr. Ravinder Bhatia

Bhatia and Bhatia
HDFC Bank
44, Deenar Bhawan,
Branch: Nehru Place
New Delhi
(A/c No.13762020002118)

Mr. Pavan Kumar Aggarwal

Kotak Mahindra Bank
Branch: Nehru Place
New Delhi
(A/c No.5111611060)

It was also pointed out that Greater Noida Authority has framed a policy of obtaining Tripartite Sub-lease Agreement by virtue of which a person can obtain possession and start residing in the premises. This is pertaining to Issue No. 5. Let New Okhla Industrial Development Authority (NOIDA) make its stand clear in respect of Issue No. 5 and the decision which has been taken by the

Greater Noida Authority on 16.05.2018.

As per the submissions raised on behalf of the buyers in the written submissions, the following non-compliance by Amrapali Group of Companies have been pointed out :-

1. Access to email id (accounts@amrapali.in) of accounts department of Amrapali was stopped by Amrapali (Pg. 4 of Mr. Bhatia's report)
2. Bank statements of 8 out of 27 additional companies is not yet provided. (Pg. 232 of Mr. Aggarwal's Report).
3. Tally Data is not submitted for Jotindra Steel, one of the companies under forensic audit. (Pg. 233 of Mr. Aggarwal's Report).
4. Out of 262 bank accounts of Amrapali Group, 96 bank accounts are still not available with Mr. Aggarwal (Pg. 212 of Mr. Aggarwal's Report).
5. 105 out of 137 individuals including key management persons of Amrapli as well as other entity, sub-lessees etc. have failed to respond to formal notices issued by Forensic Auditors. (Pg. 166 of Mr. Aggarwal's Report).

The submissions on the aforesaid non-compliance have been based on the report of the forensic auditors. We direct the Amrapli Group of Companies to make the compliance within seven days from today and to report the compliance to this Court within 10 days from today.

We have heard the learned counsel appearing for M/s J.P. Morgan in respect of the investments that have been made and the refund of the amount. Certain documents have been handed over by them in respect of the names of the investors and the persons to

whom monies have gone out of the fund that was created by M/s J.P. Morgan at Mauritius. That is taken on record. Further directions are given to place on record the agreement of M/s J.P. Morgan with the investors and its modalities of the investments.

As inability was expressed on behalf of M/s J.P. Morgan as well as other counsel to explain the report dated 23.10.2013 submitted by Mr. Sudit K. Parikh & Co., Chartered Accountants. In the circumstances, so as to find out the basis of the valuation, it is necessary to call Mr. Sudit K. Parikh [Address : Ballard House, 2nd Floor, Adi Marzban Path, Ballard Pier, Fort, Mumbai - 400 001] to explain the valuation report on the basis of which Rs. 140 crores had been withdrawn by M/s J. P. Morgan. Let the Registry send a communication to Mr. Sudit K. Parikh to appear before this Court on the next date of hearing.

It was pointed out that shares of Amrapali Zodiac were ultimately purchased for Rs. 140 Crores by M/s Neelkanth and M/s Rudraksh. It is pointed out by forensic auditors that there are two persons, namely Chandan Kumar, who is a peon of Mr. Anil Mittal, Statutory Auditor, and working in his office and other one is Vivek Mittal, who is the nephew of Mr. Anil Mittal, and is doing petty jobs of sub-contractors and having a monthly income of Rs. 15,000/-. It is stated by the learned counsel appearing on behalf of M/s J.P. Morgan that in one company, Chandan Kumar and Atul Mittal were Directors. M/s Neelkanth and M/s Rudraksh are the private limited companies in which the abovementioned persons are named as Directors. They are not having the capacity to give an amount of Rs. 140 Crores to be paid to M/s J. P. Morgan.

This is a serious kind of fraud apparent from the aforesaid facts. On being asked, Mr. Anil Kumar Sharma has showed reluctance to disclose about Atul Mittal, who was the Director of M/s Rudraksh along with Chandan Kumar. It is apparent that it was not a fair transaction of sale. That fact is required to be gone into. Let Mr. Anil Mittal and Directors of Amrapali Zodiac and Mr. Anil Sharma explain the situation by filing their personal affidavits from where the money came to be paid to M/s J.P. Morgan, who managed the money and how the companies were framed and for what purpose.

In case any fact is suppressed or found to be false, it will be viewed seriously by this Court. We make it clear that the conduct which is shown in the Court i.e. on the one hand making investment in M/s Royal Golf Link Projects Pvt. Ltd. and on the other hand, it was stated that there was NPA during the same very period by Mr. Anil Kumar Sharma, has to be viewed seriously by this court. On the other hand, he has stated that they had to borrow Rs. 9 crores from Mr. Paramjit Gandhi and that was repaid through the daughter. We feel that the entire story is shrouded in mystery and this is not the fair statement made before the Court. The effect of all this rigmarole conduct will be considered as aggravating the contempt and shall be viewed seriously, it is made clear to the Directors.

As the arguments could not be concluded today, list the matter for further hearing on 28th of February, 2019 at 02.00 PM.

We request the Forensic Auditors to make an endeavour to complete their job by 10th of March, 2019 and submit a report to this Court so that the matter can be heard finally.

Since the record has become voluminous, we direct the Registry to sort all the documents which have been filed according to the date of filing and put them in chronological order, the dates of filing, the names of the advocates and the nature of the document and volumes as well. The volumes to be numbered accordingly. After the documents are chronologically marked, let a tabular chart be prepared, which can be exchanged by all the concerned lawyers. We request Mr. Lahoty to extend the cooperation through at least two of his associates so that their help can also be taken by the officials in the Registry.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER