

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. 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 O 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 IA 135815/2017,140269/2017,6608/2018,6855/2018,50374/2018,51806/2018,55922/2018,95273/2018,96889/2018,125860/2018,128852/2018,130673/2018,135446/2018,137605/2018,137609/2018,138856/2018,138861/2018,140746/2018,143227/2018,146057/2018,152091/2018,154433/2018,168186/2018,169415/2018,169613/2018)

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 : 12-12-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For the parties

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Mr. Varun Mohan, Adv.

Mr. Sidharth Luthra, Sr. Adv.
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Mr. Kumar Kislai, Adv.
Mr. Dheeraj Nair, Adv.

Mr. Alok Kumar, Adv.
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Ms. Snigdha Singh, Adv.
Mr. P. Dogra, Adv.
Ms. Jagriti Mahajan, Adv.
Mr. Siddhant Tripathi, Adv.

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in W.P.(C).164/2018 & 267/18

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Ms. Indra Sawhney,Adv.

Mr. Kumar Sudeep Chandra,Adv.
Mr. Somesh Chandra Jha,Adv.

Mr. Dhruv Gandhi,Adv.
Mr. Amboj Kr. Sinha,Adv.

Ms. Payal Kakra,Adv.
Mr. Sushant Chaturvedi,Adv.
Ms. Anandita Pujari,Adv.

Ms. Misha Rohatgi,Adv.

Mr. Kunal Verma,Adv.
Mrs. Yugandhara Pawar Jha,Adv.
Mrs. Piyush Bhardwaj,Adv.

Ms. Tamanna Goyal,Adv.
Ms. Chandra Prakash,Adv.
For M/s. DSK Legal

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

IA No.16945 of 2018

1. Let a copy of the application be furnished to the learned

counsel appearing for the Amrapali Group of Companies. Reply, if any, to the application supported by an affidavit, be filed within fifteen days.

2. In the meantime, it is ordered that the property mentioned at Serial Nos. 8, 9 and 10 of i) Plot No. C2, Sector 26, New Raipur; ii) Plot No. 69, Sector 24, Commercial Zone, New Raipur; and iii) Plot No. D5, Sector 30, New Raipur, shall not be subjected to sale by the Debts Recovery Tribunal (DRT).

Let the status quo be maintained till the next date of hearing by the Raipur Development Authority also.

IA No. 179645 of 2018

3. We have considered this application filed by the Bank of Maharashtra. It is averred in the application that property bearing No. E-17, UPSIDC, Greater Noida, admeasuring 2237 Sq. Mtrs. was mortgaged by Gaurisuta Buildhome Pvt. Ltd. to the Bank of Maharashtra. It was claimed that the amount of around Rs. 3 Crores and 25 Lakhs is due, which was mentioned in Notice under Section 13(2) of the SARAFASI Act, while selling the property, the aforesaid dues of the borrower have to be taken care of, after due verification we will pass order in this regard at proper time.

W.P.(C) No.940 of 2017 & batch

4. Pursuant to our order dated 05.12.2018, Mr. Adhikari Devi

Prasad, Mr. Bhuvan Pant, Mr. Prasanna Kumar Rout, Mr. Jagannath Sharma, Mr. Tarun Kumar Sharma and Mr. Sunil Kumar and also Mr. Anil Sharma, Director, Amrapali Group of Companies are present in the Court. We generally asked them how the accounts for the period 2015 to 2018 were prepared by them and submitted in the Court. They have stated that it was based on tally data which was given to them. In addition, Mr. Prasanna Kumar Rout, who worked as an Accountant with Amrapali Sapphire, stated that he made the entries up to August 2018 in the tally data on the basis of the documents/vouchers which were made available to him. Mr. Jagannath Sharma, who is a Chartered Accountant and partner in L.D.R. Company stated that they have prepared the balance sheet on the basis of the tally data provided to them for the years 2015 to 2018. However, when cross-checked with the Forensic Auditors, the Court was informed that the data from 2015 to 2018 has not been made available fully to them. It was also pointed out that there should be supporting documents/material to make these entries other than the Bank statement when these statements have been prepared that should also be clarified by Amrapali Group and supplied to the Forensic Auditors.

5. We direct Mr. Jagannath Sharma to handover all his laptops to the Forensic Auditors, one of the laptops which he was

carrying was handed over in the Court to the Forensic Auditor. Mr. Jagannath Sharma has been directed to handover other laptops to Mr. Kumar Mihir, learned counsel, who will then hand over the same to the Forensic Auditors.

6. Pursuant to our previous order, we are informed that a sum of Rs.1.25 Crores has been deposited by Mr. Anil Sharma, Mr. Shiva Priya has deposited a sum of Rs.20 Lacs and Mr. Ajay Kumar has deposited a sum of Rs.10 Lacs. Let affidavits be filed by all the Directors of the Company including the above-named persons who have deposited the aforesaid sum indicating therein, how much money is available with them and whether they have deposited the entire money and no money is left with them belonging to the company and money, if any, now retained by them.

Mr. Chander Wadhwa has deposited a sum of Rs.2.20 Crores and Rs.9.69 Crores is still remains to be deposited by him. Similarly, Mr. Anil Mittal, Statutory Auditor, has also deposited a sum of Rs.20 Lacs and the balance of Rs.27 Lacs has to be deposited by him. Time was prayed for depositing the balance amount. Mr. Chander Wadhwa and Mr. Anil Mittal are given time up to 02.01.2019 to deposit the aforesaid amount of Rs.9.69 Crores and Rs.27 Lacs respectively. A Demand Draft No.953954 dated 11.12.2018 for a sum of Rs.10 Lacs has been received by the Registry on 11.12.2018 from Mr. Ajay Kumar

Singh, Director of Amrapali Group through his counsel. The same may be accepted by the Registry.

7. It was pointed out by Mr. M.L. Lahoty, learned counsel appearing on behalf of the buyers, that at least in two projects i.e. Zodiac and Eden Park, work can be taken up and started by NBCC. In that regard, we have requested the learned counsel appearing for the parties to submit before us the details of unsold apartments/flats of these projects. We have also requested the Forensic Auditors to submit a report before us to point out the instances of paper booking and fake buyers who are really not interested in purchasing the flat/apartment so that the same can be made available for sale after completion by NBCC.

8. Mr. Lahoty, the learned counsel, also pointed out that the methodology which has been adopted for creating the sub-leases was, by and large, a mode of siphoning the amount. He has given the following details as Annexure E, which is extracted below:-

"CREATION OF SUB-LEASES

I. Amrapali Centurian Park: (Current Status: 228646 Sq. Mts.)

As per the lease deed, Lessor here is Greater Noida Authority

1. Lessee here is Amrapali Centurian Park Pvt Ltd (Total Area - 2,72,916 Sq Mts)
2. Sub- Lessee of Amrapali Centurian Park here are:

o Hawelia Builders Pvt. Ltd (Hawelia Valenova Park - 14920 Sq Mts)

o DSD Homes Pvt Ltd (Novena Green - 14760 Sq Mts)
• In DSD Homes, Mr. Nishant Mukul (brother in law of Chairman Mr. Anil Sharma) Ex-Director of Amrapali Group was also a director.

o Elegant Infracon Pvt Ltd (Elegant Villa Phase I, III, & IV - 14590 Sq Mts)

• In the Elegant Infracon following are consortium partners with shareholding:

Vidhyashree Buildcon Pvt Ltd	(26%)
Nishant Creation Pvt Ltd	(19%)
Anjali Buildcon Pvt Ltd	(20%)
Agrawal Associates (Promoters) Ltd	(5%)
Elegant Infracon Pvt Ltd	(19%)
Stunning Construction Pvt Ltd	(11%)

- Vidhyashree Buildcon is one of the companies as mentioned in an order dated 26.10.2018 page 13, point 5, to whom sum of Rs.242.38 crores has been handed over. Mr. Pankaj Jain (current director of Amrapali Group) was also a director in Vidhyashree Buildcon Pvt Ltd.
- Sushma Bajaj & Kulbhushan Bajaj (Current directors of Amrapali Group) are also directors in Nishant Creation Pvt Ltd.
- Mukesh Kumar Roy (DIN: 2175661) who is presently director of Amrapali Group (listed in 46 companies LA Residentia) is also director of Anjali Buildcon.
- In Anjali Buildcon Mr. Sanjiv Kumar (DIN: 03136323) is also one of the directors, who is director of New Tech La Palacia to whom Shri Balaji Hi-Tech Construction Pvt Ltd (A sublessee of Amrapali Dream Valley) has further transferred the sub-lease of said project.
- Stunning construction is one of the Amrapali Group Company listed in 46 companies.
- Rs 46 Crs (Approx) amount which is to be paid by sub-lessee/s

II. Amrapali Dream Valley: (Current Status: 260307)

As per the lease deed, Lessor here is Greater Noida Authority.

1. Lessee here is Amrapali Dream Valley Pvt Ltd (Total Area - 354298 Sq Mts)

2. Sub- Lessee of Amrapali Dream Valley Pvt Ltd here are:
- o M/s Shri Balaji Hi-Tech Construction Pvt Ltd (Total Area - 12479 Sq Mts)
 - o M/s K.V. Developers Pvt Ltd (Total Area - 19986 Sq Mts)
 - o M/s J.M. Housing Ltd (Total Area - 33537 Sq Mts)
 - o M/s Samridhi Reality Homes Pvt Ltd (Total Area - 27989)
 - o Sum Total Area is 93991 Sq Mts
- Shri Balaji Hi-Tech Construction Pvt Ltd one of Amrapali Group company (Sr.53 Page 2913 of an affidavit by Mr. Anil Sharma as Affidavit Submitted in terms of order dated 26.09.2018, 31.10.2018. submitted on 12.11.2018, where Mr. Ajay Kumar & Mr. Mukesh Kumar Roy were directors.
 - Shri Balaji Hi-Tech Construction Pvt Ltd has further transferred the sub-lease to a new company namely New Tech La Palacia Pvt. Ltd, which has applied for revised sanction plan dated 21.01.2013 and its not yet approved. (page 18 of GNOIDA affidavit)
 - In New Tech La Palacia Mr.Sanjiv Kumar (DIN: 03136323) is a director who is also a director of Anjali Buildcon (one of the shareholders of Elegant Infracon Pvt. Ltd. who is sub-lessee of Amrapali Centurian Park.
 - Rs. 91.89 Crs (Approx) amount which is to be paid by sub-lessee/s

III. Leisure Valley: (Current Status: 396124.20 Sq. Mts

As per the lease deed, Lessor here is Greater Noida Authority.

1. Lessee here is Amrapali Leisure Valley Pvt Ltd (Total Area - 419519.20 Sq Mts)
2. Sub- Lessee of Amrapali Leisure Valley Pvt Ltd here are:
 - a. M/s Start Landcraft Pvt Ltd (Total Area - 23395 Sq Mts)

Rs.3.2 Crs (Approx) amount which is to be paid by sub-lessee/s"

9. We have directed Mr. Anil Sharma, Director of Amrapali Group of Companies and other Directors to explain the sub-

leases and place the documents regarding the creation of sub-leases on record. Mr. Anil Sharma stated before us that approximately a sum of Rs.66 Crores has been received by the creation of these sub-leases and that amount has been accounted for in the accounts of concerned Amrapali Group of Companies. With respect to the money utilization in an aforesaid manner, companies, names of Directors, relationship and activity made by sub lessee so far, let details be filed on an affidavit. We also request the Forensic Auditors to look into this aspect and submit a report before us on the next date of hearing along with other aspects mentioned in the above-quoted details filed on behalf of the flat buyers.

10. It is apparent from the explanation affidavit by Amrapali Group of Companies on the previous date, that a sum of Rs.2996 Crores has been taken out of the funds of the flat buyers. Let the complete trail of it be explained and the reasons behind that, details of assets created, money available and is with whom and we further direct the Board Resolution in that regard be also placed on record. Similarly, out of the buyers' money investment has been made in purchasing the shares of approximately a sum of Rs.1100 Crores shall also be explained and its complete trail till today also be made clear and the Board Resolution in this regard be also placed on record along with the present value of shares and who is

holding how much shares. We put restraint on sale of these shares.

11. With respect to the sale of luxury cars, we request the Forensic Auditors to depute all the three dealers to inspect the cars and submit their valuation to the Forensic Auditors. We request the Forensic Auditors to submit those valuations before us on the next date of hearing. In order to facilitate the inspection, as offered by the learned counsel appearing for the Amrapali Group of Companies, the cars will be parked/available in Towers 1, 2 and 3 situated at Noida on 16.12.2018 onwards till the inspection is made by the dealers.

12. A report has also been received from the Debts Recovery Tribunal, Delhi. Let a copy of the report be supplied to Mrs. Geeta Luthra, learned senior counsel appearing for Amrapali Group of Companies, Mr. M.L. Lahoty, learned counsel appearing for the flat buyers and Mr. Ravindra Kumar, learned counsel for the Noida/Greater Noida Authority.

13. We request the Debts Recovery Tribunal, Delhi to make valuation of Tech Park (Hotel) in Greater Noida and put up the same to auction in the last week of January 2019, after getting its valuation done. It was pointed out by the learned counsel appearing for the Bank of Baroda that a sum of Rs.75 Lacs was lent for construction of a Five Star Hotel and

approximately Rs.45 Crores is outstanding against it. Let the Debts Recovery Tribunal, Delhi also verify the charge of the Bank. The Bank is directed to report to the Debts Recovery Tribunal, Delhi about its charge and place all the documents in that regard before the Debts Recovery Tribunal, Delhi. In case it is found that the charge of the Bank is genuine, obviously the money has to be accounted for after sale of the property, for which we will pass orders after receiving a report from the Debts Recovery Tribunal, Delhi but the property has to be sold positively in the last week of January 2019. We request the Presiding Officer of the Debts Recovery Tribunal, Delhi to get the valuation done within fifteen days from today and to put the property for auction so that the money is made available for the construction activities.

14. It was also pointed out before us that the electricity bills in the name of Ultra Home Constructions Pvt. Ltd., amounting to Rs.9,56,564/- for the month of October 2019 was paid on 12.11.2018 and Rs.7,21,134/- for the month of November 2019 was paid on 06.12.2018. In case the buyers continue to pay for the current bills until further orders, electricity connection shall not be disconnected on account of past arrears.

15. It was pointed out by the learned counsel for the home buyers and Mr. Joginder Singh, a home buyer, who is present in the Court that the Authority concerned is not allowing water connection in their flats/apartments. The learned counsel on behalf of the Authority concerned pointed out that since the occupancy certificate is not granted by the Authority, it may not be permissible to provide water connection. Admittedly, the possession has been handed over to the home buyers and they are residing but so far the occupancy certificate has not been issued by the Noida Authority. Since, the home buyers are admittedly living for at least 2 to 4 years, and water is a necessity for keeping the body intact with the soul and is connected with the right to life itself, notwithstanding the fact that the occupancy certificate has not been issued, we direct the Noida/Greater Noida Authority to provide individual connections to all such home buyers who pay the usual charges, as required by the Noida/Greater Noida Authority. With respect to the electrical connection similar prayer was made, since the learned counsel for the Electricity Company is not present, we defer the consideration of the prayer for the next date.

16. For further hearing, list on 16.01.2019.

(NARENDRA PRASAD)
COURT MASTER

(VIDYA NEGI)
COURT MASTER