

ITEM NO.301 + 302

COURT NO.6

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 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. 21/2018 (X)

W.P.(C) No. 52/2018 (X)
 (FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 25842/2018)

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

W.P.(C) No. 91/2018 (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)
 (FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 27092/2018)

W.P.(C) No. 131/2018 (X)
 ([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. 246/2018 (X)
- W.P.(C) No. 298/2018 (X)
- W.P.(C) No. 267/2018 (X)
(FOR ADMISSION)
- W.P.(C) No. 288/2018 (X)
(FOR ADMISSION)
- W.P.(C) No. 460/2018 (X)
(FOR ADMISSION)
- 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)
- W.P.(C) No. 866/2018 (X)
- 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. 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. 971/2017 (X)
FOR CLARIFICATION/DIRECTION ON IA 102714/2017)

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)

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)

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

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

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

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

with

W.P. (C) No. 1397 of 2018
(for admission and IA No. 168712/2018 - exemption from filing O.T.,
IA No. 168712/2018 - exemption from filing O.T.)

Date : 05-12-2018 These matters were called on for hearing today.

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

I.A.No. 172508 of 2018 and I.A.No. 172511 of 2018

As the property has to be auctioned, the applications are hereby dismissed. However, at this stage, we are not going into the amount, if any, invested by the Lessees. The same will be considered at the appropriate stage.

I.A.No. 125675 of 2018 and I.A.No. 125678 of 2018 in W.P.(C) No. 942 of 2017

Applications not to be listed unless specifically ordered.

W. P. (C) No. 940 OF 2017 & Batch

We put the Amrapali Group of Companies and their Directors - Mr. Chander Wadhwa, CFO and Mr. Anil Mittal to explain as to why criminal action be not initiated against them on the basis of the affidavits and what is projected in various documents on record and the statements made in this Court on various dates. We also put the statutory auditors, Mr. Anil Mittal and Mr.Chander Wadhwa, CFO,

on notice as to why their conduct be not reported to the ICAI to inquire into their conduct as projected in the case.

A detailed affidavit has been filed by the Amrapali Group of Companies along with various charts. The information has been furnished in Chart B, annexed with the affidavit, with respect to the following aspects :-

“Funds received from the home buyers/customers/ sale of land, FSI/commercial/residential, Banks/FDI/ Financial Institutions/ private investors and investment made by joint venture partners/shareholders/consortium partners and their utilization in the form of various expenditures on construction, payments made to Authorities, Bank/FDI etc. and also assets created.”

Upon hearing the learned counsel appearing on both sides and perusing the affidavit filed by the Amrapali Group of Companies, the following directions are issued :-

(1) The properties mentioned in Chart B viz. Bio-Tech & Mums situated at Rajgir and Buxer in Bihar, Tech Park (Hotel, Office and Mall space) at Greater Noida, Bareilly Mall, Five Corporate Offices and all other properties mentioned in the chart, which have not already been attached, shall stand attached forthwith.

(2) As per the affidavit, in Chart D, certain properties have been sold/alienated on the date shown in the said Chart. All these properties shown in Chart D are also attached with immediate

effect. Let the details of the transactions mentioned in Chart D along with their deeds be placed before us and all other details pertaining to transactions be also disclosed.

(3) We have already passed order for sale of certain properties by Debts Recovery Tribunal (DRT). We direct the DRT to sell, inter alia, the following properties also :-

(i) Bio-Tech & Mums Hospital situated at Rajgir and Buxer in Bihar;

(ii) Tech Park Hotel, Greater Noida;

(iii) Bareilly Mall;

(iv) Four additional office towers to be sold by the DRT. We have already ordered sale of one of the Corporate Office Towers.

(v) Muzaffarpur Mall;

(vi) Villa in Goa;

(vii) Buddha Mall, Gaya, Bihar;

(viii) Land at Purnia, Bihar;

(ix) Factory (Precast)

We further direct that 15 Luxury Cars, as mentioned in Chart G (at Page Nos. 90) are hereby attached. Let the name of the Dealer/agent be provided so that these cars can be sold immediately.

We direct the Amrapali Group of Companies to hand over the documents, all raw materials, within 24 hours to the Forensic Auditors including all the vouchers and other documents, entire raw data, tally data on the basis of which the statements are being prepared by the Amrapali Group of Companies, which have been filed up to 2018 with the help of Mr.Adhikari Das, Mr. Tarun Sharma

(Chartered Accountant), Mr.Jagannath (Chartered Accountant), Mr. Bhuvan Pant and Mr.Prasanna.

The above persons shall be made available to the forensic auditors so as to help them out in doing the forensic audit and shall be kept present in this Court on the next date of hearing.

The DRT has observed in the order dated 26.11.2018 that there is a non-cooperation and non-compliance on the part of the Amrapali Group. The same tentamounts to the violation of the orders passed by this Court also. Let the Amrapali Group of Companies make the compliance as required by the DRT and report compliance of the order to this Court before the next date of hearing.

It was also informed that there are certain buyers/companies who have booked the flats by making payment of a paltry amount for purchase of several flats/plots, hence, they do not appear to be genuine buyers. We direct the Forensic Auditors to issue individual notices to such buyers and in case they fail to turn up, treat them as fake buyers and put them on notice that their properties would be available for sale.

The Forensic Auditors have placed before us a communication dated 03.12.2018, in which the Assistant Vice President, Operations Team, has written that since they are in fiduciary capacity with the investors and as per privacy policy, they are unable to share the confidential data relating to the Investors. We direct them to share the requisite information with Forensic Auditors and all such institutions, with whom such investments have been made, shall share such information with the Forensic Auditors.

We also direct all the Directors of the Company, their relatives and their family members, CFO and Statutory Auditors who are in receipt of the money of the home buyers, to deposit the same in this Court in the account which has been opened in the name of Amrapali Group of Companies by Monday, the 10th of December, 2018. It is made clear that this is the last opportunity afforded to them to do so.

We direct the Registrar concerned of this Court to transfer the property documents with respect to the 'Goa' Property received by this Court to the DRT. We also direct the NBCC to furnish the status report on the next date of hearing. Let DRT also furnish a report as to the progress made.

List the matter on 12.12.2018.

(JAYANT KUMAR ARORA)
COURT MASTER

(ARJUN BISHT)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER