

ITEM NO.301

COURT NO.6

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)

(With appln.(s) for directions, exemption from filing O.T.,
permission to assess the portal facility, intervention/
impleadment, vacating stay and modification/clarification)

WITH

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

(With appln.(s) for directions & modification/clarification)

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

(With appln.(s) for directions)

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

(With appln.(s) for appropriate orders/directions, clarification,
intervention/impleadment and appln. on behalf of R.13 seeking
permission to pursue company appln.No.17 (P.B.) of 2018)

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

(With appln.(s) for directions, further directions and for
permission to file addl. documents)

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

(With appln.(s) for directions)

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

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

(With appln.(s) for directions)

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

(With appln.(s) for clarification/direction, intervention/
impleadment)

W.P.(C) No.1206/2017 (X)

(With appln.(s) for directions)

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)
(With appln.(s) for directions)

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

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

W.P.(C) No.57/2018 (X)
(With appln.(s) for clarification/directions)

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

W.P.(C) No.134/2018 (X)
(With appln.(s) for permission to file addl. documents)

W.P.(C) No.131/2018 (X)
(With appln.(s) for stay/directions)

W.P.(C) No.160/2018 (X)
(With appln.(s) for permission to file subsequent events on record)

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

W.P.(C) No.182/2018 (X)
(With appln.(s) for directions)

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

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

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

W.P.(C) No.281/2018 (X)
(With appln.(s) for stay)

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)
(With appln.(s) for stay)

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

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

W.P.(C)No.829/2018 (X)
(With appln. for grant of interim relief)

W.P.(C)No.866/2018 (X)
(with appln. for exemption from filing O.T.)

Date : 13-11-2018 These matters were called on for hearing today.

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HON'BLE MR. JUSTICE UDAY UMESH LALIT

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

1. We again regrettably note, at the outset, that there is total non-compliance of the order passed by this Court on 31.10.2018 and the previous orders, which have been passed in the matter. This Court has directed the Amrapali Group of Companies to disclose the names of various companies/related companies. We have directed Amrapali Group of Companies to supply the Telly Data of various companies to the forensic auditors within three days. We have also directed statutory auditors Anil Mittal, Ravi Kapoor and S.N. Dhawan to disclose the names of all the companies in which their family members, acquaintances were included and all the transactions made with such companies and what has happened to the money transacted. The Court observed that non-compliance will be taken seriously. We also directed disclosures to be made not only with respect to known companies but also with respect to the relations, family members of the Directors and any of the relations of the CFO and Amrapali Group of Companies/statutory auditors, where they are Directors or such persons are Directors. The Amrapali Group of Companies and its Directors were also directed to disclose how many

luxury cars, other cars, and SUVs had been purchased from the money belonging to various companies. They were also to furnish the details of ownership, registration numbers of the luxury cars and SUVs.

2. Amrapali Group of Companies were also directed to point out as to how much tax liability has been borne by it on account of the various companies, individual Directors of various companies, their family members, organizers. List of bank accounts was also ordered to be handed over as per the list - Annexure-I. In the operative portion of the order, the following observations had been made:

"It is made clear that the Amrapali Group of Companies/Statutory Auditors, CFO shall file the affidavit in the aforesaid terms and in terms of the previous orders which have been passed by clearly stating as to what they have disclosed are the only transaction and companies and there are no more companies with whom transactions have taken place and there was no other diversion/flow of funds to any other company from Amrapali Group of Companies. In case, any averment is found to be incorrect, the consequences of filing a false affidavit will result in contempt but also of perjury. The Directors shall be permitted to meet the lawyers in order to solicit the information and to file the affidavit in this Court in detail. Let the affidavit be filed and cop be furnished to the Forensic Auditors and to other parties by 12.11.2018. As prayed, some employees may also be permitted to meet the Directors in the presence of lawyer in meeting."

3. We have heard the forensic auditors. According to the forensic auditors, following information has also not been furnished:

"1. Out of 140 computers received, the password of 90 computers was broken and changed & for 17 computers, it cannot be changed. Now 107 computers are in working conditions and 33 are not in working conditions. One server is also available but non-operative. As per the engineer, there is a risk of data loss if try to repair. Before repairing we are weighing the options. Information with regard to which computer contains data of which company of Amrapali Group has not been made available to us.

2. Telly data of 2 Companies are missing and for 21 companies it is partly provided out of 24 companies. Only for one company, it is fully provided.

3. Bank statements of 6 companies are missing and for 16 companies it is partly provided out of 24 companies. It is fully provided for 2 companies.

4. Telly data for 25 companies it is partly provided out of additional 27 companies.

5. Bank statements of 11 companies are missing and for 15 companies it is partly provided out of additional 27 companies.

6. The groupings of the companies are not provided.

7. The list is attached of bank accounts of additional 27 companies."

4. This Court has drawn suo moto contempt on 12.10.2018 and that is listed on 20.11.2018. In spite of the aforesaid observation made in the order dated

26.10.2018, still there is gross disobedience of the directions issued by this Court and in the affidavit filed in compliance of the order dated 26.10.2018, the various disclosures as ordered have not been made. Besides that, there is a failure to hand over to the forensic auditors, the relevant material as pointed out by them.

5. The names of all the related companies have also not been disclosed with which the transactions have taken place. No such statement has been made categorically in terms of the order passed by this Court on 31.10.2018 and absolutely vague averments have been made. This tantamount to deliberate non-compliance of the orders of this Court despite several opportunities having been granted.

6. The affidavit has also been filed by the Shri Anil Mittal, Statutory Auditor in which the information has not been furnished as ordered earlier by this Court in the various orders passed from time to time. An amount of Rs.47,71,340/- is lying in the deposit. He has undertaken to pay it back. We direct him to pay it back within three weeks from today, to be deposited with the Registrar of this Court.

7. An affidavit has also been filed by Mr. Anil Sharma of Amrapali Group of Companies in which names of the companies which were ordered to be disclosed have not been disclosed and no statement has been made as ordered on 31.10.2018. It is a gross violation of the orders passed by this Court. There are certain averments in the affidavit which shows that certain properties have been sub-leased, out of Dream Valley, Centurian Park, Amrapali Leisure Valley. The sub-leases have been created. Full disclosures have not been made as to subleasing since earlier affidavits were contrary to it, it was shown as unencumbered property. we direct the Directors of Amrapali Group of Companies to disclose entire transaction and relevant documents as well as Greater Noida Authorities to file the documents about sub-leases, who is holding the land as on today, its considerations, how it has been used, how much consideration was received and where the amount is lying, and the sub-lease deeds be also placed on record. We order that there shall not be any further alienation of the sub-leased property by anyone.

8. Statements of various bank accounts have also not

been furnished besides other particulars. Learned counsel has again surprisingly prayed for three weeks' further time to furnish the details though sufficient time had been given. No direction is being complied with. The Directors are filing the affidavit on each and every date making improvement as the forensic audit progresses. They are not making full disclosures and concealing the facts and have not mentioned in the affidavit what they are ordered to do. It is clear that they are obstructing the course of justice to the best of their ability. This state of affairs cannot be continued any further. For non-compliance of the directions issued from time to time, we have already drawn suo moto contempt and as subsequent orders have also been violated. For the purpose of taking the contempt proceedings to further logical end, before this Court passes any further order, we give an opportunity to the Amrapali Group of Companies and Directors to furnish their reply as to why they should not be punished for the contempt and the violation of the order passed by this Court from time to time by November 19, 2018. The case will be taken up for considering non-compliance of the order and for filing the wrong affidavits before this Court, on

20.11.2018 along with the suo moto contempt that has been registered vide order dated 12.10.2018.

9. We have two affidavits. One of Anil Mittal and another of Chander Wadhwa. Both are passing liability on each other for creating certain additional companies. None want to own the responsibility. We require Amrapali Group of Companies and their Directors to file a reply to the affidavit, filed by their CFO Chander Wadhwa and Anil Mittal. Let the copies of affidavits of Chander Wadhwa and Anil Mittal be furnished to the Advocate on Record, Amrapali Group of Companies. Let para-wise and point-wise reply be submitted as to what has transpired in the Court, as recorded in order-sheets, including what they have stated in their affidavits.

10. It was pointed out by the forensic auditors that there is Eklavya Building Solutions Private Limited and a building, Villa No.55, GOA, Aqua Fortis. It has been purchased from the funds diverted from the Amrapali Group of Companies. We attach this property and the Bank accounts of Eklavya Building Solutions Private Limited and direct that no transactions shall take place. Bank particulars be furnished on next date.

11. It was pointed out by the forensic auditor Shri Aggarwal that Sunil Kumar denied to be the owner of E-17, Greater Noida, 201310 when he was questioned by them. This property is also attached along with bank accounts of Sunil Kumar and Sunita Kumari and Gaurisuta Buildhome Pvt. Ltd. It was also pointed out by Shri Agrawal that the following companies were created to acquire assets in the name of the company.

- “1. Eklavya Building Solutions Private Limited
2. Gaurisuta Buildhome Private Limited.
3. Saffron Propmart consultancy Private Limited.
4. MVG Techno consultants Private Limited.
5. Noida Texfab private Limited.
6. Amrapali Healthcare Private Limited.”

12. It was also pointed out that Computech Pvt Ltd. is in possession of substantial amount. The forensic auditors are in the process of examining the details. However, at this juncture pursuant to findings of forensic auditors, it was pointed out by Mr. Vikas Singh, learned counsel appearing on behalf of Chander Wadhwa, CFO that a sum of Rs.7.58 crore from Rinku Computech Private Limited and Rs.4.1 crore is lying with Chander Wadhwa, said amount is out of the transactions with the Amrapali Group of Companies. He has volunteered to deposit the amount within three

weeks from today. Let it be deposited in the account opened with the Registrar of this court, within three weeks.

13. The details of 86 cars and SUVs be furnished and cars, SUVs shall not be alienated any further. No change of Registration or ownership shall be made with respect to them. In case any document is found to be created, the same shall be viewed seriously. Let the details of the cars be furnished along with the present car owners on the next date of hearing. The value of the cars as on the date of purchase, the value for which it has been sold along with the dates be stated in the affidavit in the chart.

14. From the forensic auditors' report, it is prima facie clear that Amrapali Healthcare Private Limited, as pointed out in Annexure 11 is created out of funds belonging to the Amrapali group. That is extracted hereunder:

Annexure-11

**Amrapali Healthcare Private Limited
(As per Audited financials 2015-16)**

Details of Asset

(Figures in crore)

Sl.No	Asset	Book value	Address
1.	Land	0.53	Amrapali Hospital

			P2, NH-34 Omega 1, Greater Noida, Uttar Pradesh-201310
2.	Building	4.43	Amrapali Hospital P2, NH-34 Omega 1, Greater Noida, Uttar Pradesh-201310

Date of transaction-
Area (sq. meters)-
Constructed area-

Sl.No	Shareholder's Name	% holding	No. of Shares
1.	Ultra Home Constructions Private Limited	99.89%	93,85,260
2.	Swapnil Shikha	0.03%	2500
3.	Suvash Chandra Kumar	0.08%	7500
	Total	100%	93,95,260

* In FY 2016-17 the shares of Ultra homes construction Pvt. Ltd. are transferred in the name of Gaurisuta Infrastructure Pvt. Ltd.

Details of Inter Corporate Deposits (figures in crore)

Sl.No.	Name of company	Amount
1.	Ultra Homes Construction Private Limited	5.36
2.	Others	0.32

List of Present Directors

Sl.No.	Name	Begin Date
1.	Swapnil Shikha	27/11/2012
2.	Suvash Chandra Kumar	27/11/2012

It has also been pointed out that this hospital is, in fact, owned to the extent of 99.89 percent by Ultra Home Constructions Pvt Ltd. and funding has been made by the said company. It is one of the companies out of the Amrapali Group of Companies involved in the case. Thus, it is apparent that this property has to be sold as it has been purchased out of money of buyers, in order to make available the money for construction of the buildings.

15. It is also apparent that MVG Techno Consultants Pvt. Ltd., C-56/29, Sector 62, Noida, is also owned by Amrapali Group of Companies. Ultra Homes Construction Pvt. Ltd. has 75% of shareholding and Anil Kumar Sharma and Shiv Priya are Directors, they have 20% and 5% shareholdings, that amount had also been paid out of the funds of Amrapali Group of Companies. Following is the relevant extract of forensic auditors' observations:

"MVG Techno Consultants Private Limited
(As per Audited financials 2014-15)

Annexure-8

Details of Asset

Sl No.	Asset	Book value (Figures in crore)	Address
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1.	Land	0.47	C-56/29, Sector-62, NOIDA
2.	Building	1.63	C-56/29, Sector-62, NOIDA

Date of transaction-
Area (sq meters)-
Constructed area-

Shareholding Pattern

Sl No.	Shareholder's Name	% holding	No of Shares
1.	Ultra Homes Construction Private Limited	75%	15000
2.	Anil Kumar Sharma	20%	4000
3.	Shiv Priya	5%	1000
	Total	100%	20000

Details of Inter Corporate Deposits (figures in crore)

Sl No.	Name of company	Amount
1.	Ultra Homes Construction Private Limited	1.47

List of former Directors

Sl No.	Name
1.	Ajay Kumar
2.	Pallavi Mishra

List of present Directors

Sl No.	Name	Begin Date
1.	Anil Kumar Sharma	2/03/2017
2.	Shiv Priya	2/03/2017

16. Thus, this property is also attached and is liable to be sold. We direct the DRT, Delhi, to sell Amrapali Hospital as well as MVG Techno Consultants

Pvt. Ltd. tower at C-56/29, Sector 62, Noida.

17. It is a case where we find ourselves in a situation that the money of Greater Noida and Noida Authorities has not been paid, buyers have also been duped. Other financial institutions have not been paid. Construction has not been completed. Money paid by buyers has been diverted for the creation of various companies and assets have been created. All these assets are accountable and have to be sold as it is not the independent investment made by these directors. It is a patent and blatant fraud which appears to have been played, the way in which the money has been transacted and creation of companies has taken place in connivance with the CFO, statutory auditors. It was also pointed out that there are various related companies in which money has been transferred. We restrain all monetary transactions out of bank accounts or any kind of alienation of the property held by the related group of companies where the money has been siphoned and has been used for the creation of the assets. Any transfer made in any manner shall be illegal, void and inoperative.

18. Let the other details of the money/property which might have been transferred by these companies/

related companies be also disclosed on an affidavit by Director of Amrapali Group of Companies as they are basically responsible for the creation of these dummy companies. They are not coming out with the true facts despite repeated directions. The consequences of disobedience are going to be very harsh on the Directors of the Amrapali Group of Companies.

19. Let Sunil Kumar also file an affidavit in detail of all the transactions and invoices of sale available with Gaurisuta Buildhome Private Limited. The same shall be handed over to the forensic auditors within two days from today, in case not already supplied. Let the affidavit be filed as to the ownership, and it be explained why contradictory stand has been taken in this Court and before the auditors. In this Court, it was stated that E-17, Greater Noida, Noida-201310, Surajpur belonged to Gaurisuta Buildhome Private Limited.

20. It is also necessary in order to find out the actual amount invested in building activities, out of the funds collected. It also appears that certain companies were created only for the purpose of purchasing raw materials. Whether actual transactions of purchase have taken place is required to be

ascertained. Let all the vouchers of the purchase, Bills, orders etc., which are in possession of Amrapali Group of Companies and the estimates of various raw materials for each and every building without which construction of a building is not possible to be undertaken to be positively handed over to the forensic auditors within a week. We also request the forensic auditors to propose how the actual valuation of the buildings constructed so far by the Amrapali Group of Companies on the spot can be made so as to ascertain the actual investments made and extent of diversion. Let the estimate and quantities of the bills be also furnished by Amrapali Group to the forensic auditors along with the names of all the suppliers and mode of payment. They may also collect information/documents from suppliers.

21. Let Shiv Priya justify statement made in the affidavit as to Salary income, Professional income, and other income. How much money is lying with Shiv Priya? Similarly, in the affidavit filed by Ajay Kumar, the affidavit is total non-compliance of the order passed by this Court. He is also directed to explain the salary received as well as amount transferred from the Amrapali Group of Companies, how

much money is in his hands and how he has utilised this amount so also Mr. Anil Sharma.

22. We direct the DRT to value the MVG Techno Consultants Private Limited - C-56/29, Sector 62, Noida and Amrapali Healthcare Pvt. Ltd., Amrapali Hospital - P2, NH Omega 1, Greater Noida, Uttar Pradesh - 201310 as it has to be sold.

23. The Registrar of the High Court of Goa with the help of District Collector, ascertain the details of the property at Goa, i.e., Villa No.55, GOA, Aqua Fortis, Goa, and forward it to this Court within fifteen days. That property is also attached and to be sold by the DRT, Delhi.

24. It was also pointed out that Bushells Realty Solution Private Limited received Rs. One crore from Neelkanth Buildcraft Private Limited. The account of Bushells Realty Solution Private Limited is also frozen.

25. It was stated by Mr. M.L. Lahoty learned counsel appearing on behalf of the home buyers that the current electricity charges have been paid. The statement is placed on record.

List on 20.11.2018 at 2.00 p.m.

(B. Parvathi)
Court Master

(Jagdish Chander)
Branch Officer