

ITEM NO.301

COURT NO.8

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

WITH

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. 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. 947/2017 (X)

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 100453/2017

FOR CLARIFICATION/DIRECTION ON IA 6312/2018)

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. 1144/2017 (X)

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 124701/2017)

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

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

FOR CLARIFICATION/DIRECTION ON IA 36571/2018)

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

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 135678/2017)

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

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

W.P.(C) No. 21/2018 (X)

W.P.(C) No. 74/2018 (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. 56/2018 (X)

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

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

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

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

W.P.(C) No. 160/2018 (X)

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

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

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

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

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

W.P.(C) No. 267/2018 (X)
(FOR ADMISSION)

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

W.P.(C) No. 246/2018 (X)

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

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

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

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

W.P.(C) No. 353/2018 (X)
(FOR ADMISSION and IA No.57585/2018-STAY APPLICATION)

W.P.(C) No. 460/2018 (X)
(FOR ADMISSION)

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

W.P. (C) No. 829 of 2018

Date : 06-09-2018 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

Sh. K.K. Venugopal, learned Attorney General for India, submits that the Corporation Bank (lead bank of consortium) is respondent no.8. As the claim has to be lodged before the National Company Law Tribunal (NCLT) by 30.11.2018, otherwise, it would become barred by limitation, it was fairly submitted that NCLT may be requested not to proceed further without express permission of this Court in the matter to be filed. Permission to lodge claim is granted, subject to the rider that NCLT shall not proceed further without specific permission of this Court.

The Order dated 04.09.2018 has not been complied with by Amrapali Group of Companies. It is stated that an affidavit has been prepared but the information collected so far is not complete. Further time is prayed for to file the affidavit.

However, it has been pointed out by Sh.M.L.Lahoty, learned counsel that the affidavit has been filed by Mr. Anil Kumar Sharma before the Election Commission on 24.3.2014, which is taken on record, showing the value of his assets to be 847.88 crores, whereas in the affidavit that has been filed in this Court on 3.8.2018 the value of the assets has been shown to be 67.09 crores; details of which have been given in annexure B, including fixed investment, deposits, loans and advances bank balance, cash in hand and other assets. The consideration of two affidavits makes it clear that the correct facts have not been placed before this Court. How the assets depleted from 847.88 crores to 67.09 crores in the short span of four years is required to be explained threadbare by Mr. Anil Sharma.

In the circumstances, as correct information is not being placed before us and in view of the previous orders it is also apparent from the document on record that there is shortfall of the amount that has been deposited by the buyers of more than 2000 crores. That has been diverted elsewhere by the Amrapali Group of Companies. In the circumstances, we direct forensic audit to be made of the Amrapali Group of Companies; all the 46 companies including that of M/s. Jotindra Steel. Let forensic audit be also

done of all the moveable and immovable assets of all the Directors and of their family members and relatives i.e. spouses, sons, daughters and daughter in laws etc. and of all the related companies and also where money might have flown. We appoint the following two auditors to conduct forensic Audit:

- (I) Mr. Ravi Bhatia, Auditor of M/s. Bhatia and company; and
- (ii) Mr. Pawan Kumar Aggarwal, Auditor of sharp and company.

Let forensic audit be conducted from 2008 till date and be completed within a period of two months and report be filed in this Court. Their charges shall be paid by the Amrapali Group of Companies.

We have also heard learned counsel for the parties with respect to the sale of the immovable property, the list of unencumbered property, mentioned at page 28 of the affidavit of Mr. Anil Kumar Sharma dated 16.05.2018, is to be sold, as stated to by Sh. Gaurav Bhatia, appearing on behalf of the Amrapali Group of Companies:

List of Unencumbered Property									
Sr.No	1	2	3	4	5	6	7	8	9
	Name of Property	Nature	Allotted by	Available Saleable Area (Sq. Ft) Approx in Lacs	Distress Sale Value (Inr Cr)	Realisable Value in Development model (Inr Cr)	Bank Loan	Loan Amount to be paid (Inr Cr)	Remarks
1	Amrapali Homes Unsold Land & Building at Vrindavan	Free hold	Direct purchase	3	25	30	Yes	1.5	Finance Can be raised through direct sales
2	Amrapali Homes Projects Pvt. Ltd Unsold Land/Plot at Indore	Free hold	Direct purchase	12	60	80	No	0	
3	Amrapali Homes Project Pvt Ltd Land of EWS Bhubneshwar	Free hold	Direct purchase	2.5	9	35	No	0	
4	Sangam Colonizer Part Unsold Land at Jaipur	Free hold	Direct purchase	1.75	5	17	No	0	
5	Hi-Tech CityOvt Ltd Part Unsold Land Jaipur	Free hold	Direct purchase	1.29	4	12	No	0	
6	Ultra Home Construction Pvt. Ltd at SIKKIM (Educational)	Lease hold fully paid	Direct purchase	3	5	20	No	0	Direct sale subject to permission
7	Hotel & Resort land of Ultra Home Construction Pvt. Ltd Udaipur	Lease hold fully paid	Udaipur improvement trust	1.37	15	25	No	0	
8	Ultra Home Construction Pvt. Ltd Residential Plot Raipur (Plot No C2 Sector 26, New Raipur)	Lease hold	Naya Raipur Development Authority	18.53	50	240.94	No	0	To be financed & developed by financier/Co-developer
9	Ultra Home Construction Pvt. Ltd Commercial Plot Raipur (Plot No 69 Sector 24, Commercial Zone, New Raipur)	Lease hold	Naya Raipur Development Authority	3.47	15	45.15	No	0	To be financed & developed by financier/Co-developer
10	Ultra Home Construction Pvt. Ltd Residential Plot Raipur (Plot No D5 Sector 30, New Raipur)	Lease hold	Naya Raipur Development Authority	0.28	3	7	No	0	To be financed & developed by financier/Co-developer
11	Unlaunched part of Amrapali Leisure Valley Pvt. Ltd Land Project, G.Noida	Lease hold	Greater Noida Industrial Development Authority	81.82	491	917.29	No	0	To be financed & developed by financier/Co-developer
12	Amrapali Leisure Valley Commercial	Lease hold	Greater Noida Industrial Development Authority	1.25	125	150	No	0	To be financed & developed by financier/Co-developer
13	Unlaunched part of Amrapali Dream Valley Pvt. Ltd Land, Project G.Noida	Lease hold	Greater Noida Industrial Development Authority	14.19	85	250	No	0	To be financed & developed by financier/Co-developer
14	Amrapali Dream Valley Commercial		Greater Noida Industrial Development Authority	0.90	90	100	No	0	To be financed & developed by financier/Co-developer
15	Part of Unlaunched portion of Amrapali Centurian Park Pvt Ltd	Lease hold	Greater Noida Industrial Development Authority	40.94	246	504.33	Yes	25	To be financed & developed by financier/Co-developer
16	Amrapali Centurian Park Commercial	Lease hold	Greater Noida Industrial Development Authority	1.00	100	120	No	0	To be financed & developed by financier/Co-developer
Total				187	1328	2553.71		26.5	

There are certain commercial properties which have been pointed out at page 20

AMRAPALI GROUP					
SALEABLE AREA COMMERCIAL - IIA					
S.No	Projects	Area in Sq.Ft.	Rate per Sq.Ft	Total Amount (Rs. Cr)	Total Cost to Construction (Rs. Cr)
1	Platinum Commercial Phase-2	10720	12000	13	0.8
2	Dream Valley	90000	10000	90	18
3	Centurian Park	100000	10000	100	20
4	Verona Heights	125000	10000	125	25
5	Princely Estate	10000	20000	20	2
6	Silicon City	25000	20000	50	5
7	Golf Homes	25000	12000	30	5
Total		385720		428	76

Note:-

- 1 Saleable area receivable have been divided into two variables
 - a Developerment model - IIA
 - b Distress sale Value - IIB

Learned counsel appearing on behalf of Noida and Greater Noida Authorities submitted that aforesaid included the projected area which may be available for sale in future and certain charges will have to be paid by the Amrapali Group of Companies for making available additional saleable area which is in the form of open spaces.

Sh. M.L. Lahoty, learned counsel has also attracted our attention to the immovable properties in the name of the individual Directors; Mr. Shiv Priya, Mr. Ajay Kumar, Mr. Suvash Chandra and Mr. Amresh Kumar. However, the details of the assets of the property of Mr. Anil Kumar Sharma have not been filed. Let details of the immovable properties in the name of Mr. Anil Sharma and his family be filed within four days from today on affidavit with a copy to all the parties. Let the detailed affidavit containing information and all details be filed within four days.

We further direct the details of the property in the name of other Directors and their family members be also filed on their affidavit within a period of four days from today. The properties specified in the names of all the aforesaid Directors is attached in addition to the property which has already been attached by this Court as per the previous orders.

It is also directed that let the directors those who may have already filed the affidavits and Directors who have to file affidavit, clearly state on oath by filing an affidavit the fact that they have no interest in any other property except the

20.

property which has been mentioned in affidavit. They are also directed to disclose the property held in the name of their spouses and other family members, son and daughters and daughter in laws etc.

Let affidavit in detail be also filed with respect to the commercial property as mentioned at page 20, as ordered, let Noida and Greater Noida Authority also to state what would be the available area and their charges to be realised, if any in case-area is ordered to be sold.

Let forensic audit team find out details from the PAN Nos. of all the directors and their family members interalia the extent of the assets held by them and statement of accounts for aforesaid period with respect to diversion of funds, if any. And assets in which any money has been invested or purchased out of the money of the buyers and other beneficiaries of the out flow of funds.

List the matters on 12th September, 2018 at 2 p.m.

Let Mr. Anil Kumar Sharma also explain how the worth of assets has been reduced from 847.88 crores to 67.09 crores within a short span of four years.

Let affidavit of Directors be opened from the sealed cover and copies be given to Mr. Gaurav Bhatia, and Mr. M.L. Lahotry and to the learned counsel appearing on behalf of the Noida and Greater Noida Authority.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER