

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 (Civil) No(s).940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for directions, permission to file appln. for direction, permission to assess the portal facility, vacating stay and modification/clarification)

WITH

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

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

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.971/2017 (X)

(With appln.(s) for directions)

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

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

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

(With appln.(s) for directions and impleadment/intervention)

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 of order dated 12.2.2018)

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.56/2018 (X)

W.P.(C) No.91/2018 (X)
(With appln.(s) for impleadment)

W.P.(C) No.57/2018 (X)
(With appln.(s) for 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.246/2018 (X)

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

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

W.P.(C) No.288/2018 (X)
(With appln.(s) for impleadment and directions)

W.P.(C) No.353/2018 (X)
(With appln.(s) for stay)

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

W.P.(C)No.460/2018

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

W.P.(C) No.829/2018 (X)

W.P.(C) No.866/2018 (X)

Date : 01-08-2018 These matters were called on for hearing today.

CORAM :

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

Mr. Pawanshree Agrawal, Adv. (A.C.)

For appearing parties :

Mr. Maninder Singh, ASG
Mr. Prabhas Bajaj, Adv.
Ms. Kanika Savan, Adv.
Mr. Bishwajit Dubey, Adv.
Ms. Srideepa Bhattacharyya, Adv.
Mr. Manpreet Lamba, Adv
for M/s. Cyril Amarchand Mangaldas, AOR

Mr. Vikramjeet Banerjee, ASG
Ms. V. Mohana, Sr. Adv.
Mr. S.S. Shamsherry, Adv.
Mr. Mukul Singh, Adv.
Ms. Anil Katiyar, AOR
Mr. Arvind Kumar Sharma, AOR

Mr. R.S. Suri, Sr. Adv.
Dr. Ashwani Bhardwaj, AOR
Mr. Amit Goel, Adv.
Mr. L. Hesan, Adv.
Mr. Aditya Giri, Adv.

Mr. Sanjiv Sen, Sr. Adv.
Mr. Raj Kamal, AOR
Mr. Maheen Pradhan, Adv.

Mr. Sachin Datta, Sr. Adv.
Dr. Farrukh Khan, Adv.
Ms. Rijuta, Adv.
Ms. Akanksha Singh, Adv.
for Mr. R.P. Goyal, AOR

Mr. S.S. Ray, Adv.

Mr. Vaibhav Gulia, Adv.
Mr. Praveena Gautam, AOR

Mr. Amit Sibal, Sr. Adv.
Mr. S.S. Ray, Adv.
Mr. Manmeet Singh, Adv.
Mr. Anugrah Robin Frey, Adv.
Mr. Anshul Tyagi, Adv.
Mr. Prithvi Sidhu, Adv.
Mr. Anukit Gupta, Adv.
Ms. Rakhi Ray, AOR

Mr. V.N. Sinha, Sr. Adv.
Mr. Sandeep Jha, Adv.
Mr. Ram Ekbal Roy, Adv.
Mr. Binay Kr. Das, AOR

Mr. Dhruv Mehta, Sr. Adv.
Mr. Alok K. Agarwal, Adv.
Ms. Apoorv Rastogi, Adv.
Mr. Gaurav Goel, AOR

Mr. V. Giri, Sr. Adv.
Mr. Kunal Mimani, Adv.
Mr. Dheeraj Nair, AOR

Mr. P.S. Patwalia, Sr. Adv.
Mr. Alok K. Agarwal, Adv.
Ms. Rati Tandan, Adv.
Mr. Apoorv Rastogi, Adv.
Mr. Harshal Kumar, Adv.
Mr. Manoj Kumar, Adv.
Mr. Gaurav Goel, Adv.

Mr. D.K. Garg, Adv.
Mr. Abhishek Garg, Adv.
Mr. Dhananjay Garg, AOR
Mr. Deepak Mishra, Adv.
Mr. Randhir Kr. Sinha, Adv.

Mr. Nitin Bajpai, Adv.
Ms. Neha Tanwar, Adv.
Mr. R.K. Banju, AOR

Mr. Rajeev Singh, AOR
Mr. Prabuddha Singh Gour, Adv.

Mr. R. Sathish, AOR
Mr. Mohan Das K.K., Adv.
Mr. Rajesh Kumar, Adv.
Mrs. S. Geetha, Adv.
Mrs. Smitha Rani, Adv.
Mr. Suman Tripathy, Adv.

Mr. Rameshwar Prasad Goyal, AOR

Mr. Abdul Azeem Kalebudde, AOR
Ms. Taherabi Kalebudde, Adv.

Mr. Aditya Sharma, Adv.
Mr. Sanjay Kumar Dubey, AOR

Mr. Manish Kumar Saran, AOR
Mr. S.P. Sharan, Adv.

Mr. Virender Goswami, Adv.
Mr. Gautam Narayan, AOR
Ms. Soni Singh, Adv.
Mr. Shamik Saha, Adv.

Ms. Nattasha Garg, Adv.
Mr. Rajiv Virmani, Adv.
Mr. Naveen Kumar, AOR

Ms. Roohina Dua, Adv.
Mr. Ejaj Maabool, AOR
Mr. Kunwar Aditya Singh, Adv.

Ms. Shobha, AOR
Mr. Pritesh Kumar, Adv.

Ms. Pallavi Pratap, AOR
Mr. Rahul Arya, Adv.
Mr. Ranjay, Adv.

Mr. Shishir Pinakin, AOR
Mr. vijendra Mishra, Adv.

Mr. M.L. Lahoty, Adv.
Mr. M.S. Vishnu Sankar, Adv.
Ms. Athira G. Nair, Adv.
Mr. Sriram P., Adv.
Ms. Usha Nandini V., AOR

Mr. M.L. Lahoty, Adv.
Mr. Paban K. Sharma, Adv.
Mr. Anchit Sripat, Adv.
Mr. Himanshu Shekhar, AOR

Mr. Manoj, Adv.
Mr. T. Mahipal, AOR

Mr. Sibbo Sankar Mishra, AOR
Mr. Niranjana Sahu, Adv.

Mr. Ashok Kumar Singh, AOR

Mr. Shantwanu Singh, Adv.
Mr. Chirojit Mukherjee, Adv.

Mr. Prithvi Pal, AOR
Mr. Naresh Kumar Nagar, Adv.

Mr. Kumar Abhishek, AOR
Mr. Avijit Mani Tripathi, Adv.

Mr. Vishnu Sharma, AOR
Ms. Anupama Sharma, Adv.
Ms. Sonali Negi, Adv.
Mr. Mohit Rai, Adv.

Mr. Krishnam Mishra, Adv.
Mr. Param K. Mishra, Adv.
Mr. Shanhash Singh, Adv.
Ms. Anisha Upadhyay, AOR

Mr. Balaji Srinivasan, AOR
Mr. Alok Kumar, Adv.
Ms. Somya Yadav, Adv.
Mr. Siddhant Trivedi, Adv.

Ms. Prerna Mehta, AOR
Mr. Rohit Singh, Adv.

Mr. Abhinav Shrivastava, AOR
Mr. Rahul Gupta, Adv.

Ms. Indrani Mukherjee, Adv.
Ms. Tatini Basu, AOR

Mr. Kumar Mihir, AOR

Mr. Vishal Gupta, Adv.
Mr. Abhishek Raj, Adv.

Mr. Vivek Narayan Sharma, AOR
Mr. Pragyan Utsav Mishra, Adv.
Mr. Maneesh Pathak, Adv.
Dr. Shesh Mani Pandey, Adv.
Mr. Rajeev Kumar Jha, Adv.

Mr. Vijay Kumar, Adv.
Mr. Thomas Oommen, Adv.
for Mr. Aniruddha P. Mayee, AOR

Mr. Rakesh Kr. Gupta, AOR

Ms. Sangeeta Singh, Adv.
Mr. Prakash Ranjan Nayak, AOR

Mr. Rohit Sthalekar, AOR
Mr. Shashwat Bajpai, Adv.
Mr. Sharad Agarwal, Adv.

Mr. Abhinav Jain, Adv.
Mr. Prakash Chandra Sharma, Adv.
for Mr. Himanshu Shekhar, AOR

Ms. Vandana Sehgal, AOR
Mr. Rohan Thawani, Adv.
Mr. Hardeep Singh Anand, Adv.
Mr. Anand Daga, Adv.
Ms. Gunjan Ahuja, Adv.

Mr. Pavan Bhushan, Adv.
Mr. Talha Rahman, AOR

Ms. Priyanka Das, Adv.
Mr. Somiran Sharma, AOR

Mr. Madhurendra Kumar, Adv.
Mr. Prakash Kumar Singh, AOR

Mr. Jayant Mehta, Adv.
Mr. Sukant Vikram, AOR
Mr. Anshumaan Sahni, Adv.

Mr. PBA Srinivasan, Adv.
Mr. Parth Tandon, Adv.
Mr. Aman Kr. Gupta, AOR

Mr. Girish Chand Tyagi, Adv.
Mr. Kailash Pd. Pandey, AOR

Mr. Shadan Farasat, AOR
Ms. Sayaree Basu Mallik, AOR
Mr. Shovan Mishra, AOR
Mr. Gopal Jha, AOR
Mr. A.P. Mohanty, AOR
Mr. Kailash Prashad Pandey, AOR
Mr. Pallav Mongia, AOR
Ms. E.R. Sumathy, AOR
Mr. Ravindra Kumar, AOR
Mr. Rabin Majumder, AOR
Mr. Akhilesh Kumar Pandey, AOR
Mr. Ashwarya Sinha, AOR
Mr. Gaurav Bhatia, AOR
Mr. Dharmendra Kumar Sinha, AOR
Mr. Badri Prasad Singh, AOR

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

1. On 17.5.2018, we have passed a detailed order in these cases after hearing learned counsel for the parties for several days. We need not reiterate the directions, statements, representations made to this Court and the orders which we have passed. Order dated 17.5.2018 is clear in this regard. As per the order passed by this Court, certain obligations were imposed and certain directions were issued which were to be complied with by the group of companies as well as the co-promoters etc., as mentioned in the aforesaid order. The compliance has not been reported and effort was made to wriggle out of order passed on 17.5.2018.

2. When the matter was taken up on 18.7.2018, compliance of the order was not reported and on the other hand, a letter dated 13.7.2018 signed by Mr. Akhil Saxena, Deputy Secretary to the Government of India, was placed on record. The letter is extracted hereunder :

"No.D.17024...sic
Government of India
Ministry of Housing and Urban Affairs

Nirman Bhawan, New Delhi
Dated July 13, 2018

Meeting Notice

Subject : Meeting to discuss the issues of home-buyers and affected parties of Noida/Greater Noida/Yamuna Expressway scheduled to be held on 18.07.2018 at

11:00 A.M. - 1.00 P.M. - regarding.

The undersigned is directed to state that a High Level Committee has been constituted by the Government of UP to redress the issues of home-buyers and affected parties of incomplete/stalled housing projects in the Noida/Greater Noida/Yamuna Expressway under the Chairmanship of Secretary, Ministry of Housing and Urban Affairs.

2. In this regard the Chairman of the Committee and Secretary MoUHUA will hold a meeting with the developers/promoters (Amrapali Group Jaypee Infratech Limited, Three C Group of Companies and Unitech Limited) on 18 July, 2018 at 11:00 A.M. - 1:00 PM in Room No.123-C, Conference Room, 1st Floor, Nirman Bhawan, New Delhi. You are requested to kindly make it convenient to attend the meeting personally. You may also bring the details of the housing projects promoted by your company along with your specific plans as to how earliest you can deliver the flats/houses to the home buyers who have made payments towards the same to your company.

3. A line in confirmation on email, housingministry@gmail.com will be highly appreciated.

Sd/-
(Akhil Saxena)
Deputy Secretary to the Govt. of India
Tel No.23062280

To

1. Shri Shiv Priya, ED, Amrapali Group, C-56/40 Sector-62, Noida-2301307.
2. Shri Nirmal Singh, Three C Group of Companies, Tech Boulevard Central Block, Plot No.6, Sector 127, Noida-201307.

3. Shri Manoj Gaur, Jaypee Infratech Limited, Sector 128, Noida-201304 (U.P.), India.
4. Dr. Ramesh Chandra, Chairman, Unitech Limited, 6, Community Centre, Saket, New Delhi-110017.

Copy to :

1. Sr.PPS to Secretary, Ministry of Housing and Urban Affairs.
2. PPS to Additional Secretary (Housing), Ministry of Housing and Urban Affairs.
3. PS to Economic Adviser (Housing), Ministry of Housing and Urban Affairs.
4. Deputy Secretary (Housing), MoHUA

Sd/-
(Anil Saxena)
Deputy Secretary to the Govt. of India
Te. No.23062280"

3. In order to scuttle the hearing in this Court on 18.7.2018 on which the case was listed, it was reported to us that meeting was held on that very day which was presided over by the Secretary, Ministry of Housing, who is the Chairperson of the Committee and Secretary MoUHUA. Thereafter, pursuant to the said meeting it was stated today that NBCC India Limited, a Government of India enterprise, has invited "Expression of Interest" for joint development in real estate with respect to the development of residential and commercial real estate projects in Delhi and NCR region, inclusive of the Amrapali Group for which we have already passed order on 17.5.2018.

4. In case the Committee constituted by the Government of Uttar Pradesh wanted to take up the matter of Amrapali

Group in view of order dated 17.5.2018, it was necessary for them to seek the express permission from this Court, as this Court was in seisin of the matters, before transacting any business in this regard. But that has not been done and when the order of this Court stands, it was not at all appropriate or permissible to take up the matter by the Committee and intermeddle with the order passed by this Court when the matter is pending in this Court. The action has clear effect on rendering order passed by this Court ineffective. In the circumstances, we deem it appropriate to direct the presence of the Secretary to the Ministry of Housing and Urban Affairs and the Chairman of the NBCC India Limited and to file their affidavit in this Court and produce entire record so as to show how they have convened the meeting and acted in the manner in the matter pending in this Court, without permission of this Court before dealing with the matter of Amrapali Group. Let them be present before this Court tomorrow, i.e., on 2.8.2018, at 2.00 p.m. to explain their stand.

5. Mr. Anil Kumar Sharma, Chairman and Managing Director (CMD) of Amrapali Group of Companies was personally present in this Court. He has stated that there are 40 companies in the Amrapali Group of Companies. They are as follows :

1. Ultra Home Pvt. Ltd.
2. Amrapali Silicon City Pvt. Ltd.
3. Amrapali Zodiac Developer Pvt. Ltd.

4. Amrapali Sapphire Developer Pvt. Ltd.
5. Amrapali Princely Estate Pvt. Ltd.
6. Amrapali Eden Park Developer Pvt. Ltd.
7. Amrapali Smart City Developer Pvt. Ltd.
8. Amrapali Smart City Pvt. Ltd.
9. Amrapali Leisure Valley Pvt. Ltd.
10. Amrapali Leisure Valley Developer Pvt. Ltd.
11. Amrapali Centurian Park Pvt. Ltd.
12. Amrapali Dream Valley Pvt. Ltd.
13. Amrapali Homes Project Pvt. Ltd.
14. Hi Tech City Developer Pvt. Ltd.
15. Sangam Coloniger Pvt. Ltd.
16. Shalimar Coloniger Pvt. Ltd.
17. Amrapali Infrastructure Pvt. Ltd.
18. Amrapali Aerocity Pvt. Ltd.
19. Amrapali Mahi Developer Pvt. Ltd.
20. Amrapali Buddha Developer Pvt. Ltd.
21. Amrapali Hospitality Pvt. Ltd.
22. Amrapali Biotech Pvt. Ltd.
23. Amrapali Health Care Pvt. Ltd.
24. Amrapali Hospitality Pvt. Ltd.
25. Amrapali Power & Cement Pvt. Ltd.
26. Stunning Construction Co. Pvt. Ltd.
27. Kapila Build Home Pvt. Ltd.
28. Gaurisuta Infrastructure Pvt. Ltd.
29. Gaurisuta Infra Solution Pvt. Ltd.
30. MSB Software Pvt. Ltd.
31. MVG Techno Consultant Pvt. Ltd.
32. Noida Text Fab Pvt. Ltd.
33. Navodya Properties Pvt. Ltd.
34. AHS Joint Venture
35. Amrapali Homes
36. Amrapali Grand
37. HIMS Pvt. Ltd.
38. Amrapali Spring Valley Pvt. Ltd.
39. Amrapali Patel Platinum
40. Amrapali Media Vision Pvt. Ltd.

6. The order passed by this Court of depositing 250 crores of rupees has not been complied. There is an admission already made by Amrapali Group that there was diversion of more than 2765 crores of rupees from six projects to other projects. In the circumstances, we direct the Bank accounts of all the aforesaid 40 companies be freezed forthwith. We forthwith attach the entire

immovable properties of these 40 group of companies. They shall not be entitled to deal with the same in any manner whatsoever without express permission of this Court.

7. There was diversion of the funds, *prima facie* it is apparent that when the money was paid by the buyers for the purpose of investment in the particular project, it could not have been diverted. That would *prima facie* tantamount to a criminal breach of trust. We are not expressing any final opinion in this regard at this moment. However, at the same time, we propose to take a call on this after hearing the parties on this aspect. However, so as to further ascertain the extent of internal and external diversion from all the projects. The names of all the Chartered Accountants of all the aforesaid 40 companies be disclosed to us and their reports from 2008 till today be placed on record by tomorrow.

8. The individual Bank accounts of the Directors of all the 40 companies are also freezed and they shall not be entitled to operate the same with immediate effect. Let details of all Bank accounts be furnished by tomorrow of companies and their Directors and of personal accounts of Directors. The properties in the individual names of the Directors are also attached and the same shall not be disposed of or alienated in any manner without express order of this Court.

9. Let the matter be listed tomorrow, i.e., on 2.8.2018 at 2.00 p.m. Mr. Anil Kumar Sharma , Mr. Shiv Priya and Mr. Ajay Kumar of Amrapali group of companies to remain personally present in this Court tomorrow, along with the aforesaid officials.

(Sarita Purohit)
Court master

(Suman Jain)
Branch Officer