

ITEM NO.301

COURT NO.2

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 (Civil) No.940/2017

BIKRAM CHATTERJI &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No. 110402/2020 - FOR TAKING ADDITIONAL DOCUMENTS ON RECORD;  
IA No. 110027/2020 - FOR TAKING AFFIDAVIT ON RECORD; IA No.  
50370/2020 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.  
189314/2019 - FOR COMPLIANCE OF COURT'S ORDER; IA No. 60700/2020  
- FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES;  
IA No. 127793/2019 - FOR RECALLING THE COURT'S ORDER; and, IA  
No. 127787/2019 - FOR RECALLING THE COURT'S ORDER)

WITH

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

(IA No.27275/2022 - FOR CLARIFICATION/DIRECTION)

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

W.P.(C) No.502/2019 (X)

Diary No.36392/2019 (X)

SLP(C) No.1879/2018 (XVII)

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

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

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

CONMT.PET.(C) No.483/2020 in W.P.(C) No.940/2017 (X)

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

W.P.(C) No.1397/2018 (X)

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

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

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

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

W.P.(C) No.353/2018 (X)

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

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

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

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

W.P.(C) No. 134/2018 (X)  
(IA No.27193/2022 - FOR APPROPRIATE ORDERS/DIRECTIONS)

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

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

W.P.(C) No.281/2018 (X)

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

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

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

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

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

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

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

W.P.(C) No.57/2018 (X)

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

W.P.(C) No.131/2018 (X)

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

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

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)**

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

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

**Date : 12-07-2022 These matters were called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MS. JUSTICE BELA M. TRIVEDI**

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

## **PART - I**

**NOTE – I DATED 12.07.2022**

**SUBMITTED BY MR. R. VENKATARAMANI, COURT RECEIVER**

### **A) Re.: ASSET SALE AND RECOVERY**

Second Part of the Note deals with “Asset Sale and Recovery” and submits that since the Covid outbreak, the office of the Receiver has been able to sell assets worth Rs.120 Crores; out

of which amount in the sum of Rs.87 Crores approximately has already been received. Some of the properties which have been auctioned by the Receiver are detailed as under:

Sl. No.	Description of Asset	Auction Date	Sale Value (in Rs.)	Amount Received (in Rs.)	Remarks
1	A-014, Pelican Vilas, Jaypee Greens belonging to Sh. Ajay Kumar	20.08.2021	2,81,00,000	2,81,00,000	100% payment Received
2	A-91, IRS Colony, Indirapuram belonging to Sh. Ajay Kumar	20.08.2021	2,75,00,000	2,75,00,000	100% payment Received
3	Unused FAR of Princely Estate, Sector 76, Noida	15.09.2021	43,00,00,000	29,50,00,000	Balance payment due because of non-approval of plans by Noida Authority
4	Udaipur Resort Land	09.11.2021	25,00,00,000	25,00,00,000	100% payment Received
5	Movable Assets of Pre Cast Factory	26.11.2021	17,05,00,000	17,05,00,000	100% payment Received
6	E-11, Jaypee Greens, Noida owned by Sh. Anil Sharma	07.12.2021	5,86,00,000	2,05,10,000	35% payment received as Security, sale confirmation awaited
7	E-12, Jaypee Greens, Noida owned by Sh. Shiv Priya	07.12.2021	6,33,00,000	2,21,55,000	35% payment received as Security, sale confirmation awaited
8	E-1/4, Jaypee Greens, Gt. Noida owned by Sh. Shiv Priya	07.12.2021	17,01,00,000	5,95,35,000	35% payment received as Security, sale confirmation awaited
<b>Total Sold</b>			<b>1,19,81,00,000</b>	<b>87,33,00,000</b>	

Insofar as the properties at Serial Nos.1, 2, 6, 7 and 8 are concerned, they were held by the erstwhile Directors of Amrapali

Group of Companies in certain other projects. Those properties/assets have been sold in open market and 100 per cent payment has already been received. Insofar as properties at Serial Nos.6, 7 and 8 are concerned, 35 per cent payment has been received. These properties were sold through auction in terms of order passed by this Court on 13.11.2021.

It is submitted by the learned Court Receiver that the sales so effected by the office of the Receiver be confirmed and the follow-up steps for completion of transfer of these properties be permitted to be taken up; and that appropriate assistance be ensured from the offices of NOIDA and Greater NOIDA Authorities.

Since the properties were sold pursuant to directions issued by this Court, these transactions are therefore ratified in every sense. The follow-up action or steps for completion of transfer be effected as early as possible. For effectuating transfers, the concerned Authorities, namely, Greater NOIDA Authority and Ghaziabad Development Authority shall render complete assistance to the office of the Court Receiver.

It was submitted by Mr. M.L. Lahoty, learned counsel that as and when any assets are disposed of through auction or otherwise, due intimation be given to the body of the flat-buyers. Learned Court receiver immediately responded by saying that all the details of every sale or disposal are put up on the website for the consumption of general public and specifically for benefit of the flat-buyers.

In any case, we request the Court Receiver to send due intimation to Mr. M.L. Lahoty, learned counsel on behalf of the entire body of the flat-buyers as and when any sale or disposal is effected.

**B) Re.: SALE OF UNUSED FAR/FSI**

One of the issues flagged in the Note deals with "Sale of Unused/Unutilised FAR".

Mr. Ravindra Kumar, learned Senior Advocate appearing for NOIDA/Greater NOIDA Authorities has raised certain issues and, in his submission, the unutilised FAR pertaining to any piece of land or property has to be used on the very same piece of land or property; and cannot be sold in open market like a tradeable commodity to be utilised on some other piece of land or property.

Learned Court Receiver wishes to urge certain submissions and in order to facilitate early disposal of this issue, we adjourn the matter to 25.07.2022.

Learned Court Receiver is requested to put in a Note of Submissions with advance copy to the flat-buyers and NOIDA/Greater NOIDA Authorities.

The responses to the Note shall also be circulated by the concerned Advocates.

Item No.3 in the Tabulated Chart extracted hereinabove deals with Sale of Unused FAR in respect of Princely Estate, Sector-76, NOIDA, on which count, an amount in the sum of Rs.29.5 Crores has already been received by the learned Court Receiver.

The decision *qua* sale of this asset will be made after the issue regarding "Unused/Unutilised FAR" is considered by this Court.

**C) Re.: UDAIPUR RESORT LAND**

Insofar as sale of Udaipur Resort Land is concerned, there is no objection from any quarter and 100 per cent payment has already been received by the office of learned Court Receiver.

We, therefore, ratify all the actions taken by the office of the learned Court Receiver in respect of sale of this asset.

**D) Re.: ASSETS OF PRE-CAST FACTORY**

With respect to asset mentioned at Serial No.5, namely, "Movable Assets of Pre-Cast Factory", it is submitted that there is no objection from any quarter with regard to sale of plant and machinery existing at the site and, as such, the sale effected by the office of the learned Court Receiver be ratified.

It is further submitted that the immovable property, namely, the land underneath the plant and machinery has not yet been subjected to any auction.

We record the statement and permit the learned Court Receiver to go ahead with the sale of movable assets of the Pre-Cast Factory.

E) Re.: RESERVE-CUM-SINKING FUND

One major issue which has been raised by the learned Court Receiver in his Note pertains to creation of Reserve-cum-Sinking Fund and the submission in that behalf is as under:

"As regards the decision namely Creation of a Reserve cum Sinking Fund and the demand of payment of Rs.200/sq. Ft of the area of the unit concerned from each home buyer (which will go into the sinking fund), several responses have come, questioning the same. It is submitted that all decisions including the above have been taken in view of several challenges and issues in the matter of realistic realisation of amounts due from various sources including payments from Home buyers. It is submitted that the decisions taken by the Committee and the Receiver be cleared by this Hon'ble Court, at this point of time instead of exposing the Committee, the Receiver, the banks and the home buyers to unresolvable situations leading to stalemate in the execution of the projects at a later point of time."

Mr. M.L. Lahoty and Mr. Kumar Mihir, learned Advocates appearing for some of the flat-buyers have raised objections to the creation of such Reserve-cum-Sinking Fund and in their submission, such fund need not be created and the matters can be sorted out even without such fund.

The objections in that behalf shall be placed on record by the learned Advocates before the next date of hearing and the issue will thereafter be considered by this Court.

**NOTE – II**  
**SUBMITTED BY MR. R. VENKATARAMANI, COURT RECEIVER**

One more Note has also been circulated by the learned Court Receiver regarding "The Refund Cases", "The Swapping Cases", "The JV Adjustment Cases", and, "Undervalued Cases".

Copies of the Note be given to Mr. M.L. Lahoty and Mr. Kumar Mihir, learned Advocates appearing for the flat-buyers.

These issues shall be taken up for hearing on 25.07.2022.

**PART - II**

**NOTE DATED 12.07.2022**  
**SUBMITTED BY MR. M.L. LAHOTY, ADVOCATE**

Among various issues raised by Mr. M.L. Lahoty, learned Advocate, three matters of significance may be set out hereunder: -

1. Professional Fees which were paid to the Directors amounting to Rs.100.53 Crores (referred to in the judgment of this Court dated 23.07.2019 in *Bikram Chatterji & Others v. Union of India & Others*, reported in (2019) 19 SCC 161 at 335.
2. Amounts in the sum of Rs.3152.30 Crores and Rs.32.69 Crores (detailed at Serial Nos.6 and 8 of the Tabulated Chart at page No.332 of the aforesaid reported judgment).
3. Advances recoverable in the sum of Rs.152.24 Crores (referred to at Page No.336 of the same reported judgment).

Mr. Lahoty, learned counsel submits that various assets which were created after diversion of the funds belonging to the flat-buyers and which were in the hands of certain entities like J.P. Morgan and others were retrieved as a result of processes issued by this Court; while the amounts indicated hereinabove are yet to be recovered.

Learned Court Receiver submits that every effort has been made to effectuate recoveries pertaining to these issues and that a Note shall be placed before the Court as to the progress in that behalf.

### **PART - III**

Re: I.A. No.45439 of 2021 - For Directions (Vol. No.I-169); and, Document concerning M/s. Mahagun Real Estate Pvt. Ltd. (Vol. No.R-165) - [Disposed-of Matter]

Learned Court Receiver has apprised us that a sum of Rs.125 crores has already been made over to NOIDA Authority in two tranches, namely, Rs.75 Crores on 31.05.2022, and, Rs.50 Crores on 12.07.2022, (leaving a balance in the sum of Rs.72,14,69,701/- in case NOIDA Authority succeeds in its submissions, and, Rs.45,56,61,460/- in case the submissions of the NOIDA Authority are not accepted, as stated by NOIDA Authority in its response).

Statement recorded.

## **PART - IV**

Re: IA No.110167 of 2020 - For Intervention (Vol. No.Z-311); IA No.78918 - For Directions (Vol. No.I-171); IA No.35220 of 2022 - For Intervention; and, IA. No.35225 of 2022 - For Directions on behalf of M/s. Moonbuild Tech Pvt. Ltd. (Vol. No.Z-389); Affidavit on behalf of M/s. Moon Buildtech Pvt. Ltd. (Vol. No.R-202); and, Convenience Note on behalf of Mr. Anil Kumar Sharma in response to I.A. No.35220 of 2022.

The response to the application filed on behalf of M/s. Moon Buildtech Pvt. Ltd. has been submitted by Mr. Manoj Singh, learned Counsel appearing for the Amrapali Group of Companies.

This issue shall be taken up for hearing on 18.07.2022.

## **PART - V**

Re.: I.A. Nos.97096, 97097, 97093, 100940 and 100945 of 2021 - Applications on behalf of Mr. Joginder Singh, Petitioner-in-Person (Vol.No.I-175); I.A. No.170191 of 2021 - For Submission of Additional Documents (Vol. No.I-184); Rejoinder to Reply on behalf of State of Uttar Pradesh (Vol. No.R-186); Submission of Reply to the affidavit filed on behalf of NOIDA Authority (Vol. No.R-201)

Mr. Joginder Singh, one of the flat-buyers who appeared in-person has submitted that the commercial units in any project belong to the body of the flat-buyers and that either the sale proceeds from such commercial units or the revenue generated from the use of such commercial proceeds must go to the kitty of the flat-buyers.

On the other hand, it is submitted by Mr. Ravindra Kumar, learned Senior Advocate on behalf of NOIDA/Greater NOIDA Authorities and some other learned counsel that the commercial

units can be sold as independent units to third parties and if the Deed of Declaration, which is submitted at the initial stage contemplates such sale to third parties, the same shall be given due weightage and shall have to be adhered to.

We are not, at this juncture, going into the rival contentions. We adjourn this matter to 08.08.2022 for determination.

## **PART - VI**

All the remaining Interlocutory Applications on Board are adjourned to 18.07.2022 at 2.00 p.m.

(MUKESH NASA)  
AR-cum-PS

(VIRENDER SINGH)  
BRANCH OFFICER