

ITEM NO.301 Court 2 (Video Conferencing) 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)

(Matters to be listed on 21.03.2022

1. Issue related funding by banks, Sale of resort land at Udaipur as per note 1 2 3 submitted by Ld. Court Receiver. Matter concerning Mr. Prem Mishra and related persons to be taken as first item.

(IA No. 90985/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 74385/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 12572/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 13574/2022 - CLARIFICATION/DIRECTION

IA No. 90986/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 74386/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 8259/2019 - INTERVENTION APPLICATION

IA No. 13600/2022 - INTERVENTION APPLICATION

IA No. 31467/2022 - INTERVENTION/IMPLEADMENT

IA No. 33118/2022- CLARIFICATION

IA No.138750 & 138752- INTERVENTION AND EXEMPTION FROM FILING
 AFFIDAVIT

IA No.167285 and 167286/20221-INTERVENTION AND PERMISSION TO APPEAR
 AND ARGU IN PERSON.

IA No.170312, 170313 & 170314-INTERVENTION, DIRECTION AND EXEMPTION
 FROM O.T.)

WITH

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

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

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

Diary No(s). 36392/2019 (X)

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

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

W.P.(C) No. 1374/2021 (X)

(FOR ADMISSION and IA No.166630/2021-EXEMPTION FROM FILING O.T. and IA
 No.166629/2021-APPROPRIATE ORDERS/DIRECTIONS)

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)
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 : 21-03-2022 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

NOTE - 1, 2 & 3
SUBMITTED BY MR. R. VENKATARAMANI, COURT RECEIVER

A) Re.: FUNDING BY BANKS

In continuation of the developments noticed in last few orders pertaining to this subject, Mr. R. Venkataramani, learned Court Receiver submits that out of seven banks which are members of the Consortium, six banks have already sent their final approvals.

However, the final approval is yet to be received from the Indian Bank.

Mr. Alok Kumar, learned Advocate appearing for the Consortium submits that the documentation should ideally be entered into only after the final approval is received from the Indian Bank *i.e.*, after approvals from all the members of the Consortium are received.

He further submits that efforts will be made to be in touch with the highest officials in the Indian Bank so that the final approval is received in a couple of days and by the next date of hearing, documentation is completed in every respect.

List on 28.03.2022.

B) Another connected issue has arisen as a result of application for clarification moved on behalf of the RBI [IA Nos.33118/2022 (I-191)].

Mr. K.V. Viswanathan, learned Senior Advocate appearing for the applicant has invited our attention to the order dated 13.08.2021 passed by this Court and has sought certain clarification/modification with respect to the directions issued under the heading "Funding by Banks" in Paragraphs "A to C". Said paragraphs A to C were to the following effect:-

"A. That in the event of any default or delay in the repayment obligation of ASPIRE, then the income Recognition and assets Classification status of ASPIRE shall remain standard without any additional provisioning, and shall not be

designated or treated as NPA. The leave of the court will be sought for considering resolution of any matter arising out of this direction.

- B. Housing being a priority sector for lending by banks through viz-a-viz home buyers, the Amrapali projects, being executed under the order of the Court and through the instrumentality of NBCC, funding to Amrapali projects through ASPIRE, shall be declared as Priority Funding Sector and consequently the respective capital charge shall not be that which is applicable to commercial real estate but shall be that which is applicable to the Priority Sector Funding (For example, extent of 20% as the capital charge rate relevant to priority sector funding).
- C. Having regard to the valuations of all categories of Amrapali assets already done by the Forensic Auditors and the view taken by the Court that the projects are economically viable, no external rating of the Amrapali Project, or of ASPIRE need to be undertaken now and the same shall be dispensed with."

Learned Court Receiver as well as Mr. Alok Kumar, learned Advocate for the Consortium on the other hand submit that the present application may hamper the progress concerning "Funding by Banks" and that the issues raised in the application by the RBI can well be addressed at the appropriate time. It is submitted that the banks have always been alive to the Circulars issued by the RBI from time to time and the aforesaid paragraphs "A to C" were drafted after extensive deliberations by the Banks and the Court Receiver.

Even then, the RBI being the regulator in the banking sector, we have asked Mr. Viswanathan, learned Senior Advocate to name the highest officials in the RBI who can take decision on their own and

have a meeting with the learned Court Receiver and the Representatives of the Member Banks of the Consortium.

Mr. Viswanathan, learned Senior Advocate has readily accepted the suggestion and has agreed to send the officials of the RBI to the office of the Court Receiver on 23.03.2022 at 6.00 P.M. Learned Receiver may call representatives of the Member Bank of the Consortium and after having meeting(s) with such representative(s) of the RBI and the Consortium, he makes an appropriate report to this Court.

Mr. Alok Kumar, learned Advocate appearing for the Consortium has voiced his apprehension and suggested that any meeting with the RBI or the suggestions made in the interim application [IA Nos.33118/2022 (I-191)] ought not to derail or delay the matters concerning "Funding by Banks".

We may only say that the such an apprehension is uncalled for and we are certain that the matter will get sorted out by the next date of hearing.

List on 28.03.2022.

PART II

IA Nos.13600 and 13574/2022 [Z-380] - Applications for Intervention and Direction

These applications have been moved on behalf of Sikka Infrastructure Pvt. Ltd. seeking following relief:

"i. Direct the Noida Authority to grant permission to mortgage (PTM/NOC) project land in favour of the SBICAP Ventures Private Limited under SWAMIH Investment Fund framed by the Government of India in terms of its sanction letter dated 06.08.2021 within such reasonable time as deem fit by this Hon'ble Court."

Mr. Rishi K. Awasthi, learned advocate appearing in support of the application has fairly accepted that the applicant has nothing to do with the Amrapali Projects which are being dealt with by this Court in Writ Petition No.940 of 2017.

In the circumstances, we do not entertain this application and dismiss the same as not being maintainable but leave the applicant to all the remedies as are available in law.

The application is dismissed accordingly.

PART III

IA No.138750 & 138752 of 2021 [Z-370](Applications for intervention and for exemption from filing Notarized affidavit)

List on 28.03.2022.

PART IV

Re.: MATTERS CONCERNING MR. PREM MISHRA, RELATED PERSONS AND OTHER ENTITIES [IA No.8259/2019 - For Intervention/Direction (Vol. No.Z-88); IA No.74385/2020 - For Direction (Vol. No.I-131), IA Nos.90985 and 90986 of 2020 - For Direction and for Exemption from Filing Attested Affidavit (Vol. No.I-141); Affidavit in Compliance of Order dated 07.12.2020 (Vol. No.R-138); Provisional Attachment Order No.01/2021 dated 22.02.2021 passed by the Enforcement Directorate (Vol. No.R-173), and, Objection to the observations made against the applicant by Forensic Auditor in Reports dated 23.07.2021 and 10.10.2019 (Vol. No.R-86)]

Mr. Vikas Singh, learned Senior Advocate appearing for Prem Mishra and related persons submits that the copies of the documents as directed on the last occasion have been furnished to his client just a day before. He prays for and is granted some additional time.

List as part-heard on 28.03.2022 as First Item on Board.

PART V

A. Re.: SALE OF RESORT LAND AT UDAIPUR

Lease deed in respect of this plot was executed by the Udaipur Improvement Trust ("UIT" for short) in favour of Ultra Home Construction Private Limited, company belonging to Amrapali Group on 07.02.2008. In accordance with condition 2(3) of the Lease Deed, the construction had to be effected within three years from the execution of the lease deed failing which certain charges for non-construction could be levied.

In terms of the directions issued by this Court, the property in question was taken over and under the auspices of the office of learned Court receiver, the property was put to auction. In the auction the offer of Rs.25 Crores has been received for this property and the money has been deposited with the office of the Court Receiver.

Since the claims were raised by UIT, notice was issued to UIT, whereafter factual report (R-183) has been filed in this Court on 12.03.2022.

The report has given the break up of the amounts due as under:

Amount of Late Fee	:Rs.13,19,273/-
Lease amount due till 2021-2022	:Rs.4,69,62,236/-
Total amount due	:Rs.4,82,81,509/-

The expression "Late Fee" represents the charges in terms of Condition 2(3) of the Lease Deed. The report submits that in view of the statutory mandate in the form of Rule 14A of the Rajasthan Improvement Trust (Disposal of Urban lands) Rules 1974 ("the Rules" for short), the said charges have to be levied and that there cannot be any relaxation as against such condition.

Learned Court Receiver however submits that short time be granted to him so that some agreed form of solution can be arrived at.

In the meantime, we direct:

(a) From and out of Rs.25 crores deposited as consideration by the auction purchaser Rs.4,82,81,509/- shall be set apart and retained by the Court Receiver.

(b) The balance amount shall be credited to the account of the flat buyers to be utilized in the activity of construction.

(c) The execution of documents in favour of the auction purchaser shall be undertaken immediately so that title can be passed in favour of the auction purchaser.

(d) Depending upon the report to be submitted by the learned Court Receiver on the next date of hearing, decision will be taken with respect to the amount of Rs.4,82,81,509/-

List on 28.3.2022

B. Re: I.A. No. 12572 OF 2022 (Vol. No.I-185) and I.A. No.31467 of 2022 (Vol. No.Z-386) - Applications on behalf of M/s. La Residentia Developers Private Limited

Mr. V. Giri, learned Senior Advocate, appearing for La Residentia has requested for certain reliefs which are set out in prayers A and B of the application.

He submits that 632 flats can be sold in a manner decided by the learned Court Receiver and the money recovered from such transactions of sale can then be made over to La Residentia.

Learned Court Receiver has no objection to the course suggested by Mr. Giri.

Mr. Ravindra Kumar, learned Senior Advocate appearing for Greater NOIDA prays for some time for placing the response on behalf of the Greater NOIDA on record.

We, therefore, list this matter for disposal on 28.03.2022.

Learned counsel appearing for Religare Group may also put in response before the next date of hearing.

PART - VI

Writ Petition (C) No.1374 of 2021

I. This petition under Article 32 of the Constitution has prayed for following reliefs:

(a) Direct the respondents to restore electricity at Amrapali Crystal Home Market Association; or alternatively,

(b) direct the National Building Construction Corporation Ltd. to restore electricity at Amrapali Crystal Home Market."

The petitioner is an association of owners of commercial spaces in commercial/shopping complex known as Amrapali Crystal Home Market.

Uptil now, the petitioner association was drawing electricity from and out of the electricity supplied to the flat buyers. The essence of the petition is that the association is willing to pay at commercial rate for consumption of the electricity and that the supply disconnected by the flat buyers be restored.

The documents annexed to the petition show that a letter was written by the Court Receiver to the Chief Engineer, U.P. Power Corporation Ltd. ("UPPCL" for short) for providing a new connection for market at Amrapali Crystal Home Shopping Arcade Section 76, NOIDA. After setting out certain facts, the letter then requested for providing solution to the problem by initiating steps to provide a permanent and separate electricity connection to the market.

Grievance is raised that despite such request, the authorities

are not doing the needful.

In our considered view, the course suggested by the learned Court Receiver will put an end to the entire controversy.

We, therefore, dispose of this writ petition by directing the UPPCL, Noida to provide a permanent and separate electricity connection for the market at Amrapali Crystal Home Shopping Arcade Section 76, NOIDA.

Mr. Pradeep Misra, learned Advocate for UPPCL submits that if there be any arrears with respect to the electricity consumed by the members of the association, the authorities would be within their rights to insist on clearing such arrears before entertaining the application.

Let the needful be done within three weeks from today subject of course, to the fulfillment of all the necessary conditions including deposit of any amount as required, on part of the applicant.

With these observations, Writ Petition (C) No.1374 of 2021 is disposed of.

II. I.A. Nos.167285 & 167286/2021 & 33001/2022 [Z-379]

Petitioner-in-person prays for and is granted liberty to withdraw the present applications.

The applications are dismissed as withdrawn.

III. I.A. No.170312, 170313 & 170314/2021 [Z-384]

These applications have been moved by Gaurav Jandwani, Power of Attorney for Ms. Romila Tewari. It is submitted that about Rs.82 lakhs were already paid by 2008 in respect of an apartment booked by Ms. Tewari but the website of the Receiver shows that said apartment has multiple bookings.

Our attention is invited to the communication dated 05.01.2021 from the office of the learned Court receiver that a policy decision would be taken in respect of multiple bookings and due intimation would be given to the applicant.

Issue notice, returnable on 11.04.2022.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER