

ITEM NO.301 Court 3 (Video Conferencing) 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)

(IA No. 108703/2020 - APPLICATION FOR PERMISSION
IA No. 108681/2020 - APPLICATION FOR PERMISSION
IA No. 67992/2020 - APPLICATION FOR PERMISSION
IA No. 110402/2020 - APPLICATION FOR TAKING ON RECORD
IA No. 110027/2020 - APPLICATION FOR TAKING ON RECORD
IA No. 50370/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 94047/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 109907/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 90985/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 99886/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 109401/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 112929/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 1023/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 109599/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 111395/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 74385/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 100367/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 109440/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 180011/2019 - CLARIFICATION/DIRECTION
IA No. 114496/2019 - CLARIFICATION/DIRECTION
IA No. 89379/2020 - CLARIFICATION/DIRECTION
IA No. 96598/2020 - CLARIFICATION/DIRECTION
IA No. 95831/2020 - CLARIFICATION/DIRECTION
IA No. 109576/2020 - CLARIFICATION/DIRECTION
IA No. 95273/2018 - CLARIFICATION/DIRECTION
IA No. 189314/2019 - COMPLIANCE OF COURTS ORDER
IA No. 94049/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 89380/2020 - EXEMPTION FROM FILING O.T.
IA No. 15119/2020 - EXTENSION OF TIME
IA No. 100361/2020 - INTERVENTION APPLICATION
IA No. 109438/2020 - INTERVENTION APPLICATION
IA No. 109903/2020 - INTERVENTION APPLICATION
IA No. 109397/2020 - INTERVENTION APPLICATION
IA No. 109882/2020 - INTERVENTION APPLICATION
IA No. 114490/2019 - INTERVENTION APPLICATION
IA No. 111393/2020 - INTERVENTION APPLICATION
IA No. 8259/2019 - INTERVENTION APPLICATION
IA No. 111314/2020 - INTERVENTION APPLICATION

IA No. 95828/2020 - INTERVENTION APPLICATION
 IA No. 3573/2020 - INTERVENTION/IMPLEADMENT
 IA No. 99884/2020 - INTERVENTION/IMPLEADMENT
 IA No. 109596/2020 - INTERVENTION/IMPLEADMENT
 IA No. 109573/2020 - INTERVENTION/IMPLEADMENT
 IA No. 182673/2019 - MODIFICATION
 IA No. 182079/2019 - MODIFICATION
 IA No. 182077/2019 - MODIFICATION
 IA No. 99854/2020 - MODIFICATION OF COURT ORDER
 IA No. 77651/2020 - MODIFICATION OF COURT ORDER
 IA No. 60700/2020 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 127793/2019 - RECALLING THE COURTS ORDER
 IA No. 127787/2019 - RECALLING THE COURTS ORDER
 IA No. 108696/2020 - RECALLING THE COURTS ORDER
 IA No. 108670/2020 - RECALLING THE COURTS ORDER)

WITH

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

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

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

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

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

(IA No. 109920/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 111420/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 109910/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 111410/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 109891/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 109954/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 109946/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 111425/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 109943/2020 - INTERVENTION APPLICATION
 IA No. 111424/2020 - INTERVENTION APPLICATION
 IA No. 109918/2020 - INTERVENTION APPLICATION
 IA No. 111419/2020 - INTERVENTION APPLICATION
 IA No. 109904/2020 - INTERVENTION APPLICATION
 IA No. 111409/2020 - INTERVENTION APPLICATION
 IA No. 109888/2020 - INTERVENTION APPLICATION
 IA No. 109953/2020 - INTERVENTION APPLICATION)

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

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

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

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

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

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. 56/2018 (X)

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

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

W.P.(C) No. 134/2018 (X)

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

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

**(IA No. 87533/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 87532/2020 - MODIFICATION OF COURT ORDER)**

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

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

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)

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)

(IA No. 88108/2018 - APPROPRIATE ORDERS/DIRECTIONS)

W.P.(C) No. 288/2018 (X)
(IA No. 84512/2020 - APPROPRIATE ORDERS/DIRECTIONS)

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

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

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

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

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

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

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

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

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

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

Date : 16-11-2020 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE ASHOK BHUSHAN

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

I - NOTE SUBMITTED BY THE COURT RECEIVER

(A) PROGRESS OF AUCTION AND MSTC PROCEEDINGS

Learned Court Receiver submits that the process has been initiated and as and when some progress in that behalf is achieved, he will apprise the Court accordingly.

(B) ON RESPONSE FROM THE RESERVE BANK OF INDIA AND INDIAN BANKS ASSOCIATION

Mr. Ramesh Babu M.R., learned counsel for RBI, submits that RBI has appointed Nodal Officers to interact with learned Receiver and meetings were arranged with the representatives of the RBI and members of the Indian Banks Association.

It is submitted by learned Receiver that outcome of the last meeting with the representative of the RBI and the members of the Indian Banks Association has not yet been intimated. Mr. Babu accepts that the process shall be expedited and the result in that behalf shall be intimated to the Court on the next occasion.

Learned Receiver is at liberty to take appropriate steps to enter into arrangements with Financial Institutions such as State Bank of India, Bank of Maharashtra and HDFC.

(C) HOME LOANS BY BANKS

Learned Receiver has apprised the Court that since March, 2020, the Home Buyers' contributions have been in excess of Rs. 266 crores and certain financial institutions / Banks have also started funding. Learned Receiver has also pointed out that about 16303 loan accounts were already approved by various banks and financial institutions and the money involved in the loan accounts by way of financial accommodation will be to the tune of Rs.1238 crores.

Mr. Rahul Malhotra, learned counsel for HDFC Ltd. submits that an appropriate MOU has been entered into with learned Receiver and actual disbursement of funds shall be initiated at the earliest.

(D) SUBVENTION OF LOANS

On this issue, learned Receiver has prayed for some additional time as the relevant information is yet to be received from various sources. He may do the needful and apprise the Court at the earliest.

II - NOTE SUBMITTED BY MR. M.L. LAHOTY

(A) RECOVERY OF MONEY FROM M/S ROYAL GOLD LINK CITY PROJECTS PVT. LTD.

In Sub-Part 1 of Part II of our order dated 02.11.2020, we dealt with the issue concerning recovery of money from M/s Royal Golf Link City Projects Pvt. Ltd. A note has been submitted by Mr. M.L. Lahoty, learned Advocate.

Mr. Saurabh Mishra, learned Advocate appearing for Mr.

Royal Golf Link City Projects Pvt. Ltd submits that he has already filed response which is not circulated today. In the circumstances, this issue is adjourned to 23.11.2020.

(B) RECOVERY OF 7.23 CRORES FROM M/S ACE INFRACITY DEVELOPERS PVT. LTD.

Our last order adverted to the note submitted by Mr. Keshav Mohan, learned advocate and his statement that his client would deposit Rs.7,21,21,097/- was also recorded.

Mr. Lahoty submits that on the outstanding amount interest may be levied at 12% per annum.

Mr. Keshav Mohan, learned counsel on the other hand submits that the present case stands on a different footing and cannot be equated with the cases of other defaulters.

At the request of the learned counsel for the parties, let this issue be taken up for hearing on 01.12.2020.

(C) RECOVERY FROM SUREKHA FAMILY

At the request of the learned counsel for the parties, the matter is adjourned to 23.11.2020.

(D) RECOVERY OF LEASE RENTALS FROM ATTACHED PROPERTIES

In Item VI of Part II of the last order, notices were directed to be issued to:

(1) Vaishnavi Clarks Inn, Near R.R. Buxi Road, Chowk Road, Shivganga Muhalla, Deoghar, Jharkhand;

(2) Vaishnavi Vahini Mount Life Hospitality Pvt. Ltd., Dr. B. Bhattacharya Road, Patel Nagar, BSEB

Colony, Patna (Bihar);

(3) Bank of Maharashtra, Plot No.1/3, Hall No.2, First Floor, Amrapali Green, Indirapuram, Ghaziabad;

(4) Indian Overseas Bank Plot No.1/3, Hall No.1, Vaibhav Khand, Indirapuram, Ghaziabad;

(5) The lessee in occupation of Shop Nos.17 and 18, Amrapali Village, Makanpur, Ghaziabad; and

(6) Amrapali Hospital, Greater Noida, Uttar Pradesh

Insofar as noticees 1 and 2 are concerned, Mr. Aviral Kashyap, learned advocate has entered appearance on their behalf. As regards, noticee No.3, Mr. Brijesh Kr. Tamber, learned advocate has entered appearance. They pray for and are granted a week's time to file their responses.

Ms. Mayuri Raghuvanshi, learned Advocate has entered appearance on behalf of Indian Overseas Bank and has filed response. She submits that the property in question was mortgaged to Indian Overseas Bank and in proceedings initiated at the instance of the Bank, the property was put to auction which was then purchased by one Babu Deen Khan; and that all these events had occurred before the order of attachment was passed by this Court. She further submits that as of now, her client is in occupation of the premises in the capacity as a lessee.

Mr. Manoj Kumar Singh, appearing on behalf of Amarpali Group has already filed his reply.

All the replies be served upon Mr. M.L. Lahoty, learned advocate who may file rejoinder to the responses within three days thereafter.

With regard to Amrapali Hospital, Learned Receiver submits that the rent was being deposited upto March, 2020, but after March, 2020, no rent has been deposited. Mr. Manoj Singh, learned advocate submits that rent was being deposited by M/s Promhex Plus Healthcare Pvt. Ltd. He undertakes to intimate and inform said Promhex Plus Healthcare Pvt. Ltd. to do the needful within next three weeks.

Let notices be issued to M/s Promhex Plus Healthcare Pvt. Ltd. in connection with this item. The appropriate statement of accounts regarding rents paid and payable shall be filed before the next date of hearing.

List all these matters for further consideration on 07.12.2020.

(E) RECOVERY OF Rs.912.72 CRORES FROM DIRECTORS, CFO CHANDER WADHWA AND OTHERS

At the request of the learned advocate for the concerned persons, time was granted to file responses by 16.11.2020.

Mr. Lahoty submits that no response has been filed.

Mr. Manoj Singh, learned Advocate submits that he was indisposed and could not file any response. He prays for and is granted two days time to file the response.

Mr. Abhigya Kushwaha, learned advocate is also granted time of two days to file response.

If no reply is filed, it shall be taken that the concerned parties have nothing to say in the matter.

List for further consideration on 23.11.2020 as directed earlier.

III - MATTERS INDICATED IN THE OFFICE REPORT

A) RE- LA RESIDENTIA PROJECT

In para 2 of order dated 29.10.2020, we dealt with the issue concerning La Residentia Project and directed that IA Nos. 109882/2020, 168186/2018 and 153341/2019 be taken up while considering the issue whether the Project La Residentia was an Amrapali Project or not.

Mr. V. Giri, learned Senior Advocate representing La Residentia Project prays for and is granted a week's time to respond to the application.

Mr. Manoj George, learned Advocate submits that he has moved IA No.114865 of 2020 [Z-318] on behalf of Savita Tyagi & Ors. (Home-buyers in La Residentia Project) and prays to list said I.A. alongwith IA Nos. 109882/2020, 168186/2018 and 153341/2019.

Mr. Santosh Paul, learned Senior Advocate also submits that IA No.138939/2019 has also been filed which pertains to La Residentia Project.

List all these matters together on 07.12.2020.

Let the copies of the applications be served upon Mr. Dhruv Gandhi, learned advocate within three days time.

(B) IA No.89379 of 2020

This IA has been moved by Bank of Baroda praying inter alia:

"A. Clarify the order dated July 23, 2019 passed by this Hon'ble Court in the captioned Writ Petition and uphold the validity of the mortgage created against the loan advanced by the Applicant Bank in respect of Amrapali Infrastructure Private Ltd. and Ultra Home Construction Pvt. Ltd."

Mr. Saurabh Mishra, learned advocate for the applicant has invited our attention to paragraphs 83 and 84 of the Order dated 23.07.2019 and submitted that the permissions granted in the present matter (at page 75-76) did not contain any specific condition akin to condition No.2 dealt with by this Court in para 83 of said order. He submits that subject to the first charge of Greater Noida, the mortgage created in favour of Bank of Baroda may be accepted to be valid. He submits that so long as the dues in respect of plot are outstanding, the Greater Noida Authority shall always have the first charge in respect of the property and subject to such charge, if any mortgage has been created, such mortgage cannot be said to be opposed to law.

Mr. Ravindra Kumar, learned counsel appearing for Greater Noida Authority submits that the authority to create the mortgage comes from the original lease deed in which it was clearly asserted that so long as the dues of the authority are

pending, the first charge shall always be of Greater Noida Authority. He accepts that subject to the concessions made by Mr. Saurabh Mishra, learned Advocate, the validity of the mortgage created in favour of Bank be accepted.

Learned Receiver prays for some time to study the matter.

Let copies of the application as well as the pleadings exchanged by the parties be furnished to learned Receiver within a week's time.

List on 07.12.2020.

(C) I.A.No.115383/2020

This IA has been filed by M/s Mahagun Real Estate Pvt. Ltd. praying that the observations made by this Court in its order dated 29.10.2020 concerning "Heart Beat-I and Heart Beat-2 Projects" may be clarified.

An error has kept in the order in the quoted portion from the Receiver's report. The authority in question is NOIDA and not GREATER NOIDA AUTHORITY.

Learned Receiver submits that he had discussions with the representatives of the Home-buyers Association of Heart Beat-I and Heart Beat-2 Projects and if the representatives of Mahagun Real Estate Pvt. Ltd. as well as NOIDA AUTHORITY also participate in the discussion, a solution can be arrived at which shall then be presented for consideration by this Court.

Instead of taking up the application for consideration, the course suggested by the Court Receiver is accepted. We,

therefore, adjourn the matter to 07.12.2020.

The parties are at liberty to file their responses on or before 01.12.2020.

(D) I.A.No.15119/2020[I-110]

In our order dated 07.09.2020 certain directions were issued so that the disciplinary proceedings against Mr. Anil Mittal, Chartered Accountant could be initiated and completed by the ICAI at the earliest. It was also directed that the schedule for disciplinary proceedings be indicated so that directions could be issued to ensure presence and participation of Mr. Mittal in the disciplinary proceedings. Thereafter, an affidavit has been filed on behalf of ICAI indicating certain timelines and para 8 of the affidavit indicates as under:

"8. That under Section 21(3) of the Act, it has also been provided that where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the First Schedule, he shall place the matter before the Board of Discipline and where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the Second Schedule or in both the Schedules, he shall place the matter before the Disciplinary Committee."

The Institute is permitted to initiate proceedings as indicated. In case the proceedings are to be taken in physical form and any appropriate directions are required, the

Institute shall be at liberty to approach this Court. Otherwise, the modality suggested the application can be undertaken by the Institute to conclude the proceedings as early as possible.

As prayed for, further time of six months to conclude the proceedings is granted.

I.A. is disposed of accordingly.

(E) I.A.Nos.67992/2020 & 67998/2020

These applications have been filed by Axis Bank submitting inter alia that certain financial accommodations were granted to Mr. Ajay Kumar and Mr. Shiva Priya, Directors of Amrapali Group of Companies and in respect of the outstandings the Bank had initiated proceedings under the SARFAESI Act, 2002. However, in view of the order of attachment passed by this Court in the year 2018, the assets of these individuals cannot be proceeded against.

We request learned Receiver to look into the matter and have a dialogue with the Forensic auditors and present his views on 07.12.2020.

(F) IA Nos. 108670, 108681,108696 and 108703 of 2020

IA Nos.108670 and 108681/2020 (on behalf of NOIDA) and IA Nos.108696 and 108703 of 2020 (on behalf of Greater Noida Authority) are seeking recall of the orders dated 10.06.2020, 19.08.2020, 25.08.2020 passed by this Court.

Mr. H.N. Salve, learned Senior Advocate has submitted

that certain directions were passed while dealing with IA No.49131 of 2020 preferred by ACE Group of Companies and that the purport of these directions was not to grant benefit to all plot holders and for the entire period 2010 till 2020. It is submitted that as a result of the directions issued by this Court, every builder who had taken plots on certain contractual terms entered into with the authorities is now seeking benefit under the orders.

Issue notice on these applications, returnable on 07.12.2020

Mr. Keshav Mohan, learned advocate appearing on behalf of ACE Group of Companies accepts notice.

Mr. Gaurav Mitra, learned Advocate instructed by Mr. Rajat Mittal, learned advocate appearing for Prateek Group Company requests that his client be afforded audience in connection with these applications. He invites our attention to the order dated 21.09.2020 where the issue raised by various developers and builders was dealt with by this Court as under:

“It appears that large number of applications are getting preferred by builders/developers who are not connected with Amrapali projects, seeking inter alia implementation or clarification or praying for further benefits. Our experience on last few occasions has been that these applications take up considerable length of time, as a result of which the main matters or the issues touching upon the completion of Amrapali projects get sidelined. We,

therefore, direct that hereafter the Registry shall not entertain and list before the Bench dealing with Amrapali projects, any application on the issue concerning rate of interest to be charged on the outstanding dues to NOIDA/Greater NOIDA and any other allied subjects from the Builders/Developers who are not connected with Amrapali projects. All the interlocutory applications by the Builders/Developers are therefore disposed of without any orders but reserving the remedy to the concerned applicants to take appropriate action as is open in law."

Mr. Rajat Mittal and Mr. Keshav Mohan, learned advocates are at liberty to file their responses on or before 27.11.2020. Rejoinder, if any, be filed within five days thereafter. The matter shall be dealt with and disposed of on 07.12.2020.

G) List IA Nos. 115285 & IA No.114869/2020 at the top of the Board on 23.11.2020.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER