

ITEM NO.301

COURT NO.6

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 : 09-10-2018 These matters were called on for hearing today.

CORAM :

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

For Petitioner(s)

Mr. Himanshu Shekhar, AOR
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Mr. Manish Kumar Saran, AOR
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Mr. Sukant Vikram, AOR
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Mr. Vivek Narayan Sharma, AOR
Mr. Rameshwar Prasad Goyal, AOR
Mr. Prithvi Pal, AOR
Mr. Shishir Pinaki, AOR
Mr. Shovan Mishra, AOR
Mr. Raj Kamal, AOR
Mr. Gopal Jha, AOR
Mr. Aniruddha P. Mayee, AOR
Mr. Binay Kumar Das, AOR
Mr. G. Balaji, AOR
Mr. A. P. Mohanty, AOR
Mr. Abdul Azeem Kalebudde, AOR
Mr. Kumar Mihir, AOR
Ms. Pallavi Pratap, AOR
Mr. Kailash Prashad Pandey, AOR
Mr. Ashok Kumar Singh, AOR
Mr. Pallav Mongia, AOR
Mr. Prakash Ranjan Nayak, AOR
Ms. E. R. Sumathy, AOR
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For Respondent(s)

Mr. Ravindra Kumar, AOR
Mr. Rabin Majumder, AOR
Mr. Akhilesh Kumar Pandey, AOR
Mr. Gaurav Bhatia, AOR
Mr. Ashwarya Sinha, AOR
Mr. Vishnu Sharma, AOR
Ms. Rakhi Ray, AOR

Mr. Gaurav Goel, AOR
Mr. Mukesh Kumar Maroria, AOR
M/S. Cyril Amarchand Mangaldas Aor, AOR
Mrs. Anil Katiyar, AOR
Mr. Dharmendra Kumar Sinha, AOR
Mr. Rajesh Kumar Gupta, AOR
Mr. Balaji Srinivasan, AOR
Mr. Aman Gupta, AOR
Mr. Badri Prasad Singh, AOR
Mr. Vishal Gupta, AOR

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

This Court had passed an order for handing over all the original documents of accounts of Amrapali Group of Companies from the year 2008-2015 and 2015-2018 of 46 companies. Though, this Court passed said order on 12.9.2018, thereafter, the order was not complied with. This Court, therefore, passed yet another order on 26.9.2018, whereby it was directed that all the account books, original documents etc. to be handed over to the forensic auditors, not only by the Amrapali Group of Companies but also those which were in possession of the statutory auditors.

Shri Pawan Kr. Aggarwal and Shri Ravi Bhatia appointed as forensic auditors are present in person. They have stated that the orders of this court have not been complied with and as per the e-mails, the documents have not been handed over and only skeletal documents of two companies have been handed over, namely of Amrapali Zodiac and of Amrapali Princely Estates. Rest of the other documents have

not been handed over.

We are constrained to observe that it is not only deliberate non compliance of the order but effort is being made to fritter away the documents in utter violation of the order passed by this Court. No justification could be pointed out by the learned counsel appearing on behalf of the Amrapali Group of Companies for not complying with the orders passed by this Court.

In the circumstances, since it is necessary to hand over the documents to the forensic auditors, considering the non-compliance evident on record, we find that there is no other way except to direct the Police to seize all the documents and to handover the documents to the forensic auditors after seizing them from the possession of 46 Companies and their Directors.

It was also pointed out by Shri M.L. Lahoty, learned senior counsel that not only have the documents not been handed over to the forensic auditors, but the order passed by this Court for submitting the documents to DRT has also not been complied with. According to him, there are large number of documents which have not been handed over as recorded in the order passed by the DRT on 4.10.2018.

In the circumstances, we prima facie record the finding that our order has been violated and course of justice is being thwarted. We, therefore, issue formal notice to the contemnors-Directors, namely, Anil Kumar Sharma S/o Shri M.M. Sharma, Shiv Priya, S/o Shri K.M.

Sharma and Ajay Kumar S/o Shri K.P. Singh, who are present in person and all the companies and their Directors to show cause why proceedings for contempt be not initiated against them. In the meantime, we cannot leave the matter at that. Documents are required to be seized and handed over to the forensic auditors. We, therefore, direct Delhi Police as well as NOIDA and Greater NOIDA Police to seize all the relevant documents as ordered by this Court and hand them over to the forensic auditors.

Apart from that, the documents which have not been handed over as specified in the orders passed by the DRT on 4.10.2018 be also handed over to the Police. The Police shall hand over the documents after seizing them and hand over them to forensic auditors and in case, documents are found to be bulky, they shall be kept in a room and key shall be handed over to the forensic auditors. We also direct the Police and the aforesaid three Directors to visit the statutory auditors of the company and handover all the documents in their possession to the forensic auditors. We make it clear that not even one single paper will remain with the auditors and Directors of the Amrapali Group of Companies for the aforesaid period. All the documents to be handed over to forensic auditors by the police. In case the aforesaid persons fail to hand over the documents as ordered they shall remain in the custody of the Police till such time, the documents are handed over.

Let the Police take them from the Court along with

them, to their respective offices and residences and other places where documents may be found. We request DCP, New Delhi of Delhi Police, SSP Gautam Buddh Nagar, NOIDA and SSP Greater NOIDA to do the needful. Shri Sudesh Prakash, Inspector, Delhi Police, is present. He has assured us that the needful shall be done in cooperation with NOIDA and Greater NOIDA Police. Let the case be listed for further hearing on 24.10.2018 at 2.00.p.m.

Let the forensic auditors provide the list year-wise and company-wise to the Police.

As statutory auditors have started their work, for the time being, we direct amount of Rs.20 lakhs (Rupees Twenty Lakhs) each to be handed over to each of the forensic auditors. That amount shall be released from account number 201002234299 of Amrapali Hospitality Services Pvt. Ltd.

There are eight Directors, namely, Shiv Priya, Ajay Kumar, Subhash Chandra Kumar, Amresh Kumar, Sunil Kumar, Sudhir Kumar Chaudhary, Anil Kumar Sharma and Vinay Vishal and three ex-Directors, namely, Rakesh Mahajan, Iftikhar Ahmed, and Pallavi Mishra. None of the statutory auditors and Directors shall leave the country. Passports of all the Directors shall be surrendered and handed over to the Police SHO Tilak Marg, New Delhi. It is made clear that this direction is not applicable to nominee Directors.

I.A.NO.140690/2018 :

Considered I.A.No.140690/2018, filed by the Deputy

Commissioner of Police, Economic Offence Wing, Delhi Police, New Delhi. At the outset, it must be stated that the application has been filed unnecessarily. Order dated 27.3.2018 passed by this Court has not dealt with any criminal case. The observations made in the operative portion of the order to the effect "No coercive action will be taken by any authority with respect to the building where completion is going on under the order passed by this Court", does not deal with any Police investigation in any criminal case or in F.I.R. which may have been registered with Delhi Police, Economic Offence Wing. We have not passed any such order. Nothing comes in the way of Delhi Police, Economic Offence Wing, to make any criminal investigation in any case which is required to be made. Let the investigation be made.

The Delhi Police, Economic Offence Wing, is also free to file charge-sheet and take all appropriate steps. Nothing comes in the way of the Delhi Police to make investigation as per law. Let steps taken be reported to this Court within three months.

I.A.No.140690/2018 stands, disposed of, accordingly.

(B. PARVATHI)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER