

ITEM NO.21

COURT NO.11

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.940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

IA No.148953 of 2018 in Writ Petition (Civil) No.942 of 2017 -
Application for clarification and further directions) - LISTED

Date : 10-10-2018 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. M.L. Lahoty, Adv.
Mr. Anchit Sripat, Adv.
Mr. Himanshu Shekhar, AOR

For Applicant(s) Mr. Alok K. Aggarwal, Adv.
Mr. Gaurav Goel, Adv.

For Delhi Police: Mr. Vikramjit Banerjee, ASG
Mr. Vibhu Shanker Mishra, Adv.
Ms. Anil Katiyar, AOR
Mr. B.V. Balaram Das, AOR

For NOIDA Authority Mr. Vishnu Sharma, AOR

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

IA No.148953 of 2018 in Writ Petition (Civil) No.942 of 2017

After the order was passed by this Court on 09.10.2018, present application has been filed on behalf of three directors, namely, Anil Kumar Sharma son of Shri M.M. Sharma, Shiv Priya son of Shri K.M. Sharma and Ajay Kumar son of Shri K.P. Singh.

It has been submitted that in pursuance of the aforesaid order dated 09.10.2018, these three applicants have been taken into custody by Delhi Police whereafter they were taken to R.M.L. Hospital and they were lodged in the police lock up at Police Station Tilak Marg.

Under these circumstances, this application prays for following reliefs:

- a) Clarify the order dated 09.10.2018 passed by this Hon'ble Court to hold that Mr. Anil Kumar Sharma, Mr. Shivpriya and Mr. Ajay Kumar may be kept in Noida in a proper place/home of the directors or such place as the Hon'ble Court may deem fit with personnel of Delhi or Noida Police as may be directed.
- b) Direct applicants may not be put in lock up and further may be allowed to interact with their officials, and lawyers so that the process of handing over of the documents is expedited.
- c) Clarify that the applicants are not under arrest and the rigors of arrest procedure as adopted may not be undertaken for the applicants.
- d) The documents available at Noida and other offices be taken in the custody of the Police and the offices be sealed as the documents are very bulky.
- e) Clarify that upon the handing over of the documents in possession of the Directors they would no longer be required to be in custody."

Mr. Alok Kumar Aggarwal, learned counsel appearing for the applicants submitted, on instructions, that the applicants are willing to handover all the documents in question. However, the police officers are unaware as to which documents are to be taken into custody and from which place. Resultantly, the applicants may

have to remain in custody indefinitely.

Attention of this Court has also been invited to email received from Forensic Auditors which indicates the documents required by the Forensic Auditors. Said e-mail states the required documents as under:

- "1. Tally package for all the 46 companies from 1.4.2007 to 31.03.2015 arranged Company wise and year wise;
 2. All vouchers with supporting documents for all the companies as above again year wise and company wise.
 3. List and names of all Allottees who have applied for flats Company wise and Scheme wise with their files, Registers and details of amounts collected from each Allottee.
 4. Bank Reconciliation statements with list of all Banks and year wise statements Company wise year wise. Similar details are required for the 3 years from 1.4.2015 to 31.03.2018.
- Whatever records they want to handover should have complete details and lists as to Company wise and year wise what they are handing over to us."

Learned counsel for the applicants submitted, on instructions, that there is no difficulty in complying with the requisition in terms of Item Nos.1 to 3 and as regards Item No.4, it was submitted that, Bank Reconciliation Statements with list of all banks and company wise are available up to 2015 and for the period after 2015, raw data is available.

It is submitted that thus the entirety of the required documents can be handed over. He further submitted that these documents are presently lying at following seven places:

- "1. C 56/40 - Tower - 1, SECTOR 62, NOIDA
2. C 56/37 - Tower - 2, SECTOR 62, NOIDA
3. C 56/29 - Tower - 3, SECTOR 62, NOIDA
4. C 56/27 - Tower - 4, SECTOR 62, NOIDA
5. CRYSTAL OFFICE, SILICON CITY SECTOR - 76 (NOIDA)
6. DREAM VALLEY PVT. LTD., TECHZONE - 4, PLOT NO.G.H. 09, - (MARKETING OFFICE), GREATER NOIDA WEST
7. CENTURIAN PARK PVT. LTD., TECHZONE - 4, PLOT NO.G.H. 05 (MARKETING OFFICE), GREATER NOIDA WEST

He further submitted that the documents are so bulky that it would be difficult to physically handover the documents to any person. He also showed willingness that in order to expedite the process and to ensure confidentiality, all the above places could be sealed and keys could be handed over to the Forensic Auditors.

We therefore direct the concerned police officers, namely, Superintendents of Police of Noida/Greater Noida to take the three applicants to all the abovementioned seven places and in their presence, seal all the seven premises. After sealing is over, the keys be handed over to the Registrar of this Court.

Learned counsel further submits that the documents are also kept at two other places, namely, (A) AMRAPALI BIOTECH PVT. LTD., CHHABILAPURA, RAJGIR, NALANDA (BIHAR); and, (B) AMRAPALI BIOTECH PVT. LTD., MUMS MEGAFOOD PARK PVT. LTD., NEAR NAVODYA VIDYALAYA, NAWA NAGAR, BUXAR, BIHAR and that the representatives of the Amrapali Group of Companies, namely, Mr. Pankaj, Factory Manager

(Mobile No.6204949759) and Mr. H.C. Gupta, (Incharge) (Mobile No.7701979256) will render all assistance in having the premises at Rajgir and Buxar sealed as well.

We direct the Superintendents of Police of the relevant districts of Rajgir and Buxar, State of Bihar, to immediately go to the places in question and seal the premises. After due sealing, the keys shall be transmitted to the Registrar of this Court.

We are passing this order on the premise that the documents required by the Forensic Auditors are kept at the 7 plus 2 places and not any other place. Appropriate undertakings to the effect that "all the documents are available at the above 7 plus 2 places only and that not a single document is kept at any other place" shall be submitted by all the three applicants before this Court. The undertaking shall state that all the documents pertaining to 46 companies from 2007 to 2018 now stand handed over. Such undertaking shall be submitted by tomorrow.

The sealed premises can be visited only by the Forensic Auditors or by other persons under their express authorization. No other person shall be allowed entry into the said premises.

If the entire exercise of sealing the aforesaid seven premises situated at Noida and Greater Noida is complete today, the presence of the three applicants will not be insisted upon by the Police. However, if the exercise is not complete, the present status will continue except that these applicants, instead of being put up in the lock up, shall be kept in the police station itself.

This order shall be complied with expeditiously and the compliance shall be reported to this Court by tomorrow.

Let the Superintendents of Police of Districts Rajgir and Buxar, State of Bihar be intimated by the Registry of this Court telephonically so that appropriate steps can be taken up immediately.

A copy of this order immediately be given to Delhi Police also.

Let the matter be listed tomorrow at 10.30 am.

Let the three applicants remain present in the Court tomorrow at 10.30 a.m.

(MUKESH KUMAR)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER