

ITEM NO.301

COURT NO.4

SECTION XVII-A

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

Civil Appeal No(s). 10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(Only IA Nos. 57578 of 2022 and 64802 of 2022 in SLP(Cr1)Nos. 5978-79/2017 and IA No. 100828/19, 70286/2020 and 81090 of 2020 in Civil Appeal No. 10856 of 2016 are to be listed, IA No. 81090/2020 - INTERVENTION APPLICATION)

WITH

SLP(Cr1) No. 5978-5979/2017 (II-C)

(IA No. 64802/2022 - CLARIFICATION/DIRECTION

IA No. 57578/2022 - CLARIFICATION/DIRECTION)

Date : 18-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE M.R. SHAH

Mr. Pawanshree Agrawal, AOR (A.C.)

Mr. Varun K. Chopra, Adv.

For Appellant(s)

Mr. Deepak Goel, AOR

Mr. Siddhartha Dave, Sr. Adv.

Mr. Vishal Gosain, Adv.

Mr. Anuroop Chakravarti, Adv.

Ms. Ranjeeta Rohatgi, AOR

Ms. Samten Doma, Adv.

Ms. Aarushi Singh, Adv.

Ms. Neeha Nagpal, Adv.

Ms. Tarannum Cheema, Adv.

Mr. N. Venkataraman, ASG

Ms. Anubha Agrawal, AOR

For Respondent(s)

Ms. Madhavi Divan, ASG

Mr. K.M. Nataraj, ASG

Ms. Suhashini Sen, Adv.

Ms. Shraddha Deshmukh, Adv.

Mr. M.K. Maroria, AOR
Ms. Chinmayee Chandra, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Rajan Kr Chourasia, Adv.
Mr. Prashant Singh B, Adv.
Mr. Amrish Kumar, AOR
Mr. Ayush Puri, Adv.
Ms. Ruchi Kohli, Adv.
Ms. Nidhi Khanna, Adv.
Ms. Praveena Gautam, Adv.
Mr. Shekhar Vyas, Adv.
Mr. Santosh Kumar, Adv.
Mr. Sughosh Subramaniam, Adv.
Mr. Subramanyan S., Adv.
Mr. Ankur Talwar, Adv.
Ms. Vaishali Verma, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Arvind Kumar Sharma, AOR
Mr. T.A. Khan, Adv.
Mr. Anish Kr. Gupta, Adv.
Mr. Adit Khorana, Adv.
Mr. Digvijay Dam, Adv.
Mr. G.S. Makkar, AOR

Ms. Misha Rohatgi, AOR

Ms. Jasmine Damkewala, AOR
Ms. Vaishali Sharma, Adv.
Mr. Dinesh Chander Trehan, Adv.

Mr. Divyesh Pratap Singh, AOR

Ms. Pritha Srikumar Iyer, AOR

Mr. Anil Grover, Sr. AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kumar Visen, AOR
Ms. Ritu Rastogi, Adv.
Mr. Suresh Kumar Bhan, Adv.

Mr. Brijesh Kumar Tamber, AOR
Mr. Nitin Kaushik, Adv.
Mr. Yashu Rustagi, Adv.

Mr. Ujjal Banerjee, AOR

Mr. Ankur S Kulkarni, AOR
Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.

Ms. Uditha Chakravarthy, Adv.

Mr. M.L. Lahoty, Adv.
Mr. Paban K. Sharma, Adv.
Mr. Anchit Sripat, Adv.
Mr. Pranab Kumar Nayak, Adv.
Mr. Himanshu Shekhar, Adv.

Mr. Ravindra Kumar, Sr. Adv.
Mr. Binay Kumar Das, AOR

Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shwetal Shepal, Adv.

Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Shariq Ahmed, Adv.
Mr. Tariq Ahmed, Adv.
Mr. Sunil Kumar Verma, AOR

Ms. Pallavi Tayal, AOR

Ms. Pinky Anand, Sr. Adv.
Ms. Kirti Dua, Adv.
Ms. Saudamini Sharma, Adv.
Ms. Priyanjali Singh, Adv.

Mr. Sandeep Devashish Das, Adv.
Ms. Anandini Kumari Rathor, Adv.
Ms. Mehak Sood, Adv.

Mr. Nimit Mathur, Adv.
Mr. Amit Shrivastava, Adv.

Ms. Neha Gupta, Adv.

Mr. Romy Chacko, Adv.
Mr. Sudesh Kumar Singh, Adv.

Mr. Vikramjit Banerjee, ASG
Mr. Sidhartha Barua, Adv.
Mr. Praful Jindal, Adv.
Ms. Jasmine Damkewala, AOR

Mr. Dama Seshadri Naidu, Adv.
Mr. B. Arvind Srevatsa, Adv.
Mr. S. Santanam Swaminadhan, Adv.
Mr. Abhilasha Shrawat, Adv.
Ms. Aarthi Rajan, AOR

Mr. Ravi Prakash Mehrotra, Sr. Adv.

Mr. Apoorv Srivastava, Adv.
Mr. Abhay Anand Jena, AOR

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

IA No 81090 of 2020 in Civil Appeal No 10856 of 2016

- 1 Issue notice, returnable on 27 July 2022.
- 2 Reply be filed in the meantime.

Priadarshni Foundations Pvt Ltd

- 1 We have heard Mr Dama Seshadri Naidu, counsel appearing on behalf of Priadarshni Foundations Pvt Ltd, and Mr N Venkataraman, Additional Solicitor General.
- 2 Priadarshni Foundations Pvt Ltd shall submit all documents to the Registrar for adjudication of stamp duty payable and for the registration of land in the name of Unitech Limited in accordance with law. The documents shall be submitted for adjudication to:
 - District Registrar - Chennai South, Integrated Building for Offices of the Commercial Taxes and Registration Department, Fanepet, Nandhanam, Chennai - 35; and
 - Sub Registrar - Kunrathur, NGS Enclave, Manickam Salai, Kundrathur, Chennai - 69.

Unitech Action Taken Report III (Post - 28.10.2021)

- 1 Pursuant to the previous hearing before this Court, a meeting has been convened between Mr N Venkataraman, Additional Solicitor General, Mr Ravindra Kumar, senior counsel appearing on behalf of the NOIDA and Greater NOIDA, Mr Anil Grover, senior AAG appearing on behalf of the State of Haryana and Mr Ankur S Kulkarni, counsel appearing on behalf of the Bangalore Development Authority.

- 2 Mr N Venkataraman, Additional Solicitor General, submitted that there was a broad consensus along the following lines:
 - (i) Where approvals have been granted by the planning authorities prior to the enforcement of the National Building Code 2016¹ and construction had reached at an irreversible state, the construction would be governed by the erstwhile NBC and applications for renewal shall be accordingly processed by the planning authorities on that basis;

 - (ii) Any application for the grant of fresh construction permissions shall be processed on the basis of the prevailing law on the date of the consideration of the application by the planning authority;

 - (iii) Wherever the approvals have already been granted under the erstwhile NBC and where constructions have not reached an irreversible state, the provisions of NBC 2016 shall be adhered to;

 - (iv) Where deviations have been found from the sanctioned plan, the new board of Management of Unitech Limited shall submit applications for compounding which shall be duly considered in accordance with law by

the planning authorities;

- (v) The moratorium which is presently in force shall continue to remain in operation. The compounding fee, upon being quantified by the planning authorities shall be payable by Unitech Limited as and when a demand is raised; and
 - (vi) The accounts shall be maintained project wise so as to facilitate the graded payments of the dues of the planning authorities.
- 3 Mr Ravindra Kumar, senior counsel appearing on behalf of NOIDA and Greater NOIDA, submits that the above formulation which has been placed before this Court by the Additional Solicitor General may need to be nuanced so as to take the amendments in the design parameters due to the upgradation of the NBC 2005 to NBC 2016 and subsequent revisions. In this context, senior counsel submitted that the amendments will have to be taken up on an item by item basis and the planning authority would consider the application of the NBC 2005 or NBC 2016, as the case may be, with reference to each item separately.
- 4 In order to obviate any controversy on the applicability of the NBC 2005 or, as the case may be, NBC 2016 item wise, it has been agreed that a joint statement shall be prepared by the senior counsel appearing on behalf of NOIDA/Greater NOIDA and the Additional Solicitor General to be placed before this Court to obviate any ambiguity in the future. This exercise shall be carried out within a period of four weeks and a joint statement shall be placed on the record.
- 5 The Additional Solicitor General has submitted that the new board of management of Unitech would commit itself to comply with the NBC 2016 even in the case of projects where approvals have already been granted under the erstwhile NBC to the extent that it is feasible so as to take into account the

concerns which have been expressed on behalf of NOIDA/Greater NOIDA.

- 6 As far as the State of Haryana is concerned, Mr Anil Grover states that the Haryana Rules of 2017 would be applicable. In the matter of fire safety norms, Mr Anil Grover submitted that it has been agreed during the course of the meeting with the Additional Solicitor General that these norms shall be followed by the construction agencies.
- 7 Mr Ankur S Kulkarni, counsel appearing on behalf of BDA, states that during the course of the meeting which was convened with the Additional Solicitor General, the consensus which was arrived at is set out in the submissions of the Additional Solicitor General would be acceptable to BDA, subject to verification.
- 8 The new management of Unitech has sought permission to commence the tendering process.
- 9 The tendering cycle has been indicated in the following chart in the report submitted by the Unitech:

Tender Event Schedule		
1. Invitation of Bids by Unitech (01.06.2022)	2. Pre-bid meeting (15.06.2022)	3. Receipt of Bids by Unitech (30.06.2022)
4. Tender Opening (07.07.2022)	5. Handing over the Tender Documents to PMCs for evaluation and making recommendations (10.07.2022)	6. Evaluation of Bids by PMCs (01.08.2022)
7. Submission of recommendations to Unitech management (03.08.2022)	8. Issuance of LoA/Lol by Unitech management (23.08.2022)	9. Award of Contracts by Unitech (30.08.2022)

- 10 The above table indicates that by the next date of listing of these proceedings in July 2022, the schedule so far as items 1 to 5 is concerned would be observed.

The Court has been apprised of the fact that the cost estimates which have been prepared by the PMCs are being vetted by Engineers India Limited², a central public sector undertaking. The report of EIL is expected to be received by the end of May 2022. The report of EIL shall be placed before Hon'ble Mr Justice Abhay Manohar Sapre in terms of the assignment entrusted to him by the previous order of this Court. Mr Justice A M Sapre is requested to scrutinise all tender documents including the underlying financials having due regard to the report which would be submitted by the EIL after verification of the cost estimates which are submitted by the PMCs. Justice Sapre shall be associated with every stage of the tendering process which shall be carried out under his supervision.

- 11 An *ad hoc* amount of Rs 20 lakhs shall be disbursed by Unitech to Justice Sapre towards honorarium payable for the work which has been assigned under the orders of this Court, subject to further orders.
- 12 We clarify that the entrustment to Justice Sapre of the above task in the context of the tender formalities shall be in addition to the previously entrusted task connected with the land sale.

Issue of refund of the age group 65-75 years and above 75 years

- 1 On the issue of refund, Mr Pawanshree Agrawal, *amicus curiae*, states that limited data of about 600 home buyers has emerged on the web portal and permission may be granted to allow an extension of three weeks so that all home buyers can come forth and register the information which has been described in the previous order of this Court.

- 2 The *amicus curiae* states that some additional time would be required to collate the relevant data.
- 3 The portal may be kept open for a further period of four weeks to allow all home buyers to upload their data and information in terms as directed in the order dated 27 April 2022.

IA No 64802 of 2022

- 1 The first prayer in the IA is that the Superintendents of Arthur Road Jail and Taloja Jail may be directed to produce the petitioners in terms of the order dated 26 August 2021 (on the video conferencing facility) and to ensure that the summons received from the Court are communicated in advance to the petitioners.
- 2 A reply has been filed on behalf of the prison authorities of the State of Maharashtra.
- 3 Mr Rahul Chitnis, Chief Standing Counsel, states that wherever production warrants are received by the prison authorities, necessary action is taken to comply with the production warrants by producing the accused on the video conferencing platform during the court hours.
- 4 In view of the reply which has been filed by the prison authorities and the statement of the Chief Standing Counsel, no further directions are required on this aspect.
- 5 The second prayer is for extending medical facilities as entailed in the jail manual.

6 The affidavit filed by the prison authorities and the statement which has been made by the Chief Standing Counsel are to the effect that all necessary facilities as required in terms of the jail manual are being extended.

7 As regards contact with the lawyers and the members of the family, the petitioners would be entitled to the facilities which are permissible under the jail manual.

8 The IA is accordingly disposed of.

IA No 57578 of 2022

1 List the IA on 27 July 2022.

2 Counter affidavit be filed in the meantime.

Civil Appeal Nos 10856/2016 and SLP(Crl) Nos 5978-5979/2017

List the following on 27 July 2022 at 2 pm:

- (i) IA No 57578 of 2022;
- (ii) Status Report of DG (Prisons);
- (iii) Action Taken Report III;
- (iv) Issue of refund of the age group 65-75 years and above 75 years;
- (v) IA No 100828 of 2019 and IA No 70286 of 2020 in Civil Appeal No 10856 of 2016;
- (vi) IA No 81090 of 2020 in Civil Appeal No 10856 of 2016;
- (vii) D.A. Kumar - IA Nos 97388 of 2020, 47795 of 2021 filed by Unitech and IA Nos 80954 of 2020 and 80947 of 2020 filed by D A Kumar;

(viii) Carnoustie - IA Nos 50704 of 2021, 50706 of 2021 filed by Unitech and IA Nos 79304 of 2020, 5463 of 2021 filed by Carnoustie and IA No 118046 of 2018 in SLP (Crl) Nos 5978-5979 of 2017; and

(ix) IA No 50683 of 2021 in Civil Appeal No 10856 of 2016.

(SANJAY KUMAR-I)
AR-CUM-PS

(RAM SUBHAG SINGH)
COURT MASTER