

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s).10851/2016

ARVIND KUMAR GUPTA

Appellant(s)

VERSUS

UNITECH LTD. . &amp; ORS.

Respondent(s)

[IA No.23393/2018-impleading party and IA No.23396/2018-  
CLARIFICATION/DIRECTION]

WITH

[ITEM NO.33.1 - C.A. No.10856/2016 (XVII)];  
[ITEM NO.33.2 - C.A. No.2511-2526/2017 (XVII)  
IA No.66938/2017 - EXTENSION OF TIME and  
IA No.90673/2017-EXTENSION OF TIME];  
[ITEM NO.33.3 - C.A. No.5174-5181/2017 (XVII)];  
[ITEM NO.33.4 - C.A. No.9391-9404/2017 (XVII)  
FOR impleading party ON IA 98431/2017  
FOR INTERVENTION/IMPLEADMENT ON IA 98431/2017];  
[ITEM NO.33.5 - C.A. No.15493/2017 (XVII)  
IA No.77581/2017 - CONDONATION OF DELAY IN FILING;  
and IA No.77582/2017 - CLARIFICATION/DIRECTION and  
IA No.78654/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS;  
and IA No.82788/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS];  
[ITEM NO.33.6 - SLP(Cr1) No. 5978-5979/2017 (II-C)  
IA No.73474/2017 - Application for exemption from filing Certified  
as well as ordinary plain copy of the impugned order;  
IA No.4543/2018 - Application for substitution;  
IA No.4540/2018 - Application for substitution;  
IA No.123121/2017 - Appropriate orders/directions;  
IA No.32223/2018 - Appropriate orders/directions;  
IA 87314/2017 - Appropriate orders/Directions;  
IA 22112/2018 - Appropriate orders/Directions;  
IA 139538/2017 - Appropriate orders/Directions;  
IA 20867/2018 - Appropriate orders/Directions;  
IA 46262/2018 - Appropriate orders/Directions;  
IA 72036/2018 - Clarification/Direction;  
IA 72196/2018 - Clarification/Direction;  
IA 137532/2017 - Clarification/Direction;  
IA 72035/2018 - Clarification/Direction;  
IA 97616/2018 - Clarification/Direction;  
IA 72149/2018 - Clarification/Direction;  
IA 96561/2018 - Clarification/Direction;  
IA 115336/2017 - Clarification/Direction;  
IA 137527/2017 - Clarification/Direction;  
IA 29029/2018 - Clarification/Direction;  
IA 45689/2018 - Clarification/Direction;  
IA 63414/2018 - Clarification/Direction;

IA 71484/2018 - Clarification/Direction;  
IA 72489/2018 - Clarification/Direction;  
IA 88565/2018 - Clarification/Direction;  
IA 368/2018 - Clarification/Direction;  
IA 43789/2018 - Clarification/Direction;  
IA 60021/2018 - Clarification/Direction;  
IA 94632/2018 - Clarification/Direction;  
IA 86305/2017 - Clarification/Direction;  
IA 98455/2018 - Clarification/Direction;  
IA 121642/2017 - Clarification/Direction;  
IA 137522/2017 - Clarification/Direction;  
IA 137547/2017 - Clarification/Direction;  
IA 26582/2018 - Clarification/Direction;  
IA 51299/2018 - Clarification/Direction;  
IA 67003/2018 - Clarification/Direction;  
IA 72212/2018 - Clarification/Direction;  
IA 81402/2018 - Clarification/Direction;  
IA 98452/2018 - Clarification/Direction;  
IA 13047/2018 - Clarification/Direction;  
IA 23580/2018 - Clarification/Direction;  
IA 23876/2018 - Clarification/Direction;  
IA 41514/2018 - Clarification/Direction;  
IA 51294/2018 - Clarification/Direction;  
IA 62930/2018 - Clarification/Direction;  
IA 71472/2018 - Clarification/Direction;  
IA 85479/2018 - Clarification/Direction;  
IA 91001/2017 - Clarification/Direction;  
IA 123132/2017 - Clarification/Direction;  
IA 135534/2017 - Clarification/Direction;  
IA 137540/2017 - Clarification/Direction;  
IA 38156/2018 - Clarification/Direction;  
IA 71464/2018 - Clarification/Direction;  
IA 72200/2018 - Clarification/Direction;  
IA 91131/2018 - Clarification/Direction;  
IA 110495/2017 - Clarification/Direction;  
IA 62412/2018 - Clarification/Direction;  
IA 79963/2018 - Intervention Application;  
IA 85350/2018 - Intervention Application;  
IA 91130/2018 - Intervention Application;  
IA 97630/2018 - Intervention Application;  
IA 90004/2017 - Intervention Application;  
IA 90575/2017 - Intervention Application;  
IA 90881/2017 - Intervention Application;  
IA 91667/2017 - Intervention Application;  
IA 91918/2017 - Intervention Application;  
IA 95331/2017 - Intervention Application;  
IA 99968/2017 - Intervention Application;  
IA 105185/2017 - Intervention Application;  
IA 105646/2017 - Intervention Application;

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IA 110486/2017 - Intervention Application;  
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IA 814/2018 - Intervention Application;  
IA 11441/2018 - Intervention Application;  
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IA 138367/2017 - Intervention Application;  
IA 139860/2017 - Intervention Application;  
IA 657/2018 - Intervention Application;  
IA 9367/2018 - Intervention Application;  
IA 15342/2018 - Intervention Application;  
IA 22801/2018 - Intervention Application;  
IA 32222/2018 - Intervention Application;  
IA 46033/2018 - Intervention Application;  
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IA 62159/2018 - Intervention Application;  
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IA 71246/2018 - Intervention Application;  
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IA 138358/2017 - Intervention Application;  
IA 139640/2017 - Intervention Application;  
IA 373/2018 - Intervention Application;  
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IA 60257/2018 - Intervention Application;  
IA 70148/2018 - Intervention Application;  
IA 72146/2018 - Intervention Application;  
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IA 106473/2017 - Intervention Application;  
IA 110469/2017 - Intervention Application;  
IA 112302/2017 - Intervention Application;  
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IA 139563/2017 - Intervention Application;  
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IA 67279/2018 - Intervention Application;  
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IA 112299/2017 - Intervention Application;  
IA 128733/2017 - Intervention Application;  
IA 141461/2017 - Intervention Application;

IA 13348/2018 - Intervention Application;  
IA 43090/2018 - Intervention Application;  
IA 60016/2018 - Intervention Application;  
IA 63037/2018 - Intervention Application;  
IA 72114/2018 - Intervention Application;  
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IA 110327/2017 - Intervention Application;  
IA 112057/2017 - Intervention Application;  
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IA 18103/2018 - Intervention Application;  
IA 48917/2018 - Intervention Application;  
IA 67001/2018 - Intervention Application;  
IA 72211/2018 - Intervention Application;  
IA 80246/2018 - Intervention Application;  
IA 98447/2018 - Intervention Application;  
IA 90011/2017 - Intervention Application;  
IA 91934/2017 - Intervention Application;  
IA 95374/2017 - Intervention Application;  
IA 101725/2017 - Intervention Application;  
IA 105291/2017 - Intervention Application;  
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IA 107245/2017 - Intervention Application;  
IA 110321/2017 - Intervention Application;  
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IA 138388/2017 - Intervention Application;  
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IA 4267/2018 - Intervention Application;  
IA 18095/2018 - Intervention Application;  
IA 23533/2018 - Intervention Application;  
IA 51293/2018 - Intervention Application;  
IA 57412/2018 - Intervention Application;  
IA 62925/2018 - Intervention Application;  
IA 72065/2018 - Intervention Application;

IA 80237/2018 - Intervention Application;  
IA 85478/2018 - Intervention Application  
IA 98444/2018 - Intervention Application;  
IA 90008/2017 - Intervention Application;  
IA 90581/2017 - Intervention Application;  
IA 90999/2017 - Intervention Application;  
IA 91672/2017 - Intervention Application;  
IA 91929/2017 - Intervention Application;  
IA 95334/2017 - Intervention Application;  
IA 100788/2017 - Intervention Application;  
IA 105189/2017 - Intervention Application;  
IA 105657/2017 - Intervention Application;  
IA 106313/2017 - Intervention Application;  
IA 107239/2017 - Intervention Application;  
IA 109954/2017 - Intervention Application;  
IA 118816/2017 - Intervention Application;  
IA 137538/2017 - Intervention Application;  
IA 138372/2017 - Intervention Application;  
IA 140009/2017 - Intervention Application;  
IA 18092/2018 - Intervention Application;  
IA 23380/2018 - Intervention Application;  
IA 51259/2018 - Intervention Application;  
IA 71446/2018 - Intervention Application;  
IA 133342/2017 - Intervention/Impleadment;  
IA 139971/2017 - Intervention/Impleadment;  
IA 23754/2018 - Intervention/Impleadment;  
IA 51232/2018 - Intervention/Impleadment;  
IA 55573/2018 - Intervention/Impleadment;  
IA 66087/2018 - Intervention/Impleadment;  
IA 71438/2018 - Intervention Application;  
IA 72189/2018 - Intervention Application;  
IA 90877/2018 - Intervention Application;  
IA 98660/2017 - Intervention/Impleadment;  
IA 123118/2017 - Intervention/Impleadment;  
IA 23751/2018 - Intervention/Impleadment;  
IA 51226/2018 - Intervention/Impleadment;  
IA 107191/2017 - Intervention/Impleadment;  
IA 122885/2017 - Intervention/Impleadment;  
IA 23739/2018 - Intervention/Impleadment;  
IA 51222/2018 - Intervention/Impleadment;  
IA 87309/2017 - Intervention/Impleadment;  
IA 122293/2017 - Intervention/Impleadment;  
IA 23736/2018 - Intervention/Impleadment;  
IA 23734/2018 - Intervention/Impleadment;  
IA 49450/2018 - Intervention/Impleadment;  
IA 90697/2017 - Intervention/Impleadment;  
IA 105437/2017 - Intervention/Impleadment;  
IA 59884/2018 - Intervention/Impleadment;  
IA 91143/2018 - Intervention Application;

- IA 90659/2017 - Intervention/Impleadment;
- IA 91692/2017 - Intervention/Impleadment;
- IA 23875/2018 - Intervention/Impleadment;
- IA 66759/2018 - Intervention/Impleadment;
- IA 123125/2017 - Intervention/Impleadment;
- IA 135533/2017 - Intervention/Impleadment;
- IA 3435/2018 - Intervention/Impleadment;
- IA 12896/2018 - Intervention/Impleadment;
- IA 32565/2018 - Intervention/Impleadment;
- IA 46255/2018 - Intervention/Impleadment;
- IA 55575/2018 - Intervention/Impleadment;
- IA 66094/2018 - Intervention/Impleadment;
- IA 23251/2018 - Permission to appear and argue in person;
- IA 108851/2017 - Permission to appear and argue in person;
- IA 108822/2017 - Permission to appear and argue in person;
- IA 138368/2017 - Permission to file application for direction;
- IA 107196/2017 - Permission to file application for direction;
- IA 71828/2018 - Permission to file application for direction;
- IA 73472/2017 - Permission to file SLP without certified / plain copy of impugned order;
- IA 23839/2018 - Permission to place on record subsequent facts;
- IA 4504/2018 - Permission to place on record subsequent facts;
- IA 72068/2018 - Recalling the Court's Order; and
- IA 13046/2018 - Seeking custody certificate.

[ITEM NO.33.7 - C.A. No. 11008/2017 (XVII)  
(IA No.80805/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.85513/2017-INTERVENTION/IMPLEADMENT and IA No.85519/2017-INTERVENTION/IMPLEADMENT and IA No.85880/2017-INTERVENTION/IMPLEADMENT and IA No.95992/2017-impleading party and IA No.98113/2017-APPROPRIATE ORDERS/DIRECTIONS and IA No.98117/2017-DELETING THE NAME OF RESPONDENT)];

[ITEM NO.33.8 - C.A. No. 17008-17011/2017 (XVII)  
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 94736/2017  
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 96100/2017  
FOR CLARIFICATION/DIRECTION ON IA 15770/2018)];

[ITEM NO.33.9 - C.A. No. 16858/2017 (XVII)  
(FOR ADMISSION and IA No.97166/2017-PERMISSION TO FILE APPEAL and IA No.112640/2017-impleading party and IA No.112648/2017-APPLICATION FOR TRANSPOSITION and IA No.128215/2017-impleading party)]

[ITEM NO.33.10 - C.A. No. 20003/2017 (XVII)  
(IA No.119851/2017-CONDONATION OF DELAY IN FILING and IA No.119859/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.119854/2017-CONDONATION OF DELAY IN REFILEING and IA No.119862/2017-APPROPRIATE ORDERS/DIRECTIONS)];

[ITEM NO.33.11 - SLP(C) No. 30997/2017 (XVII)  
(FOR ADMISSION and I.R.)];

[ITEM NO.33.12 - C.A. No. 3727/2018 (XVII)  
(FOR ADMISSION and I.R. and IA No.41950/2018-CONDONATION OF DELAY  
IN FILING and IA No.41952/2018-APPROPRIATE ORDERS/DIRECTIONS)];  
[ITEM NO.33.13 - C.A. No. 6837-6838/2018 (XVII)];  
[ITEM NO.33.14 - SLP(C) No. 12667/2018 (XVII)  
(FOR ADMISSION and I.R.[ TO BE TAKEN UP ALONGWITH ITEM NO. 31 I.E.  
C.A.NO.10851/2016 ])].

Date : 27-07-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

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Mr. Abhinav Agrawal, Adv.  
Mr. Rajiv Kumar Virmani, Adv.  
Mr. Gaurav Jain, Adv.  
Mr. Atul Malhotra, Adv.  
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Mr. Shubhranshu Padhi, Adv.  
Mr. Ashish Yadav, Adv.

In person

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Mr. Avinash Tripathi, Adv.

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Mr. Sandeep Bajaj, Adv.

Mr. S. Qureshi, Adv.

Ms. Nidhi Mohan Parasher, Adv.

Mr. Ashwani Garg, Adv.

Mr. Vijay Kumar, Adv. AOR]

Mr. Ghanshyam, Adv.

Mr. Devendra Singh, Adv.

Ms. Vandana Surana, Adv.

Mr. Sunder Khatri, Adv.

Ms. Shital Khatri, Adv.

Ms. Priya Kashyap, Adv.

Mr. Rajesh Goyal, Adv. [AOR]

Mr. Ishan Sanghi, Adv.

Ms. Simran Ved, Adv.

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

On 16.07.2018, after hearing learned counsel for the parties, the following directions were issued :

"In the meantime, as directed earlier, the Committee has valued the property situated at Bangalore and submitted a report indicating that valuation of total

property is Rs.97,69,50,000/- (Rupees ninety-seven crores sixty-nine lakhs fifty thousand only) as per fair market price. The share of the Unitech Limited in respect of the land in question, as has been valued, is Rs.49,17,84,000/- (Rupees forty-nine crores seventeen lakhs and eighty-four thousand only). It is not in dispute that the purchaser, namely, M/s. Devas Global Services LLP, has already given Rs.5,00,00,000/- (Rupees five crores only) to Unitech Limited, which has been deposited before this Court. It is submitted by Mr. Sajan Poovayya, learned senior counsel appearing for the willing purchaser that the applicant has applied for a loan to H.D.F.C. Bank and the bank has agreed to grant loan, subject to execution of the sale deed.

In view of the aforesaid, we direct M/s. Devas Global Services LLP to deposit Rs.43,17,84,000/- (Rupees forty-three crores seventeen lakhs eighty-four thousand only), after availing loan from the Bank, before the Registry of this Court within ten days hence. In the meantime, the sale deed be executed under the supervision of the Committee. As per our last order, the willing purchaser has deposited Rs.1,00,00,000/- (Rupees one crore only) before the Registry of this Court, to show its bona fide. If the amount is not deposited, as directed herein-above, the sum of Rs.1,00,00,000/- (Rupees one crore only), which has been deposited by the willing purchaser shall stand forfeited. We request the Chairman of the Committee to see to it that the needful is done, as stated herein-above, within the time stipulated. In the meantime, the petitioners shall deposit a further sum of Rs.5,00,000/- (Rupees five lakhs only) with the Chairman of the Committee.

Mr. Anand Grover, learned senior counsel has submitted that an application has been filed on behalf of the Housing Development Financial Corporation Limited forming the subject matter of I.A.No.85237/2018. Let a copy of the said application be served on Mr. Abhimanyu Bhandari, learned counsel assisting Mr. Ranjit Kumar, learned senior counsel appearing on behalf of the petitioners. Objections, if any, be filed before the next date of hearing.

It is submitted by Mr. R. Shrivastava, learned senior counsel, appearing on behalf of the applicant, namely, Wisdom World Developers Pvt. Ltd., that the applicant is willing to carry out the project, namely, United Golf and Country Club, to the fullest. The applicant is also prepared to pay the dues of NOIDA and LIC and the actual amount spent by Unitech Limited. Mr. Ranjit Kumar,

learned senior counsel appearing for the petitioners intends to file an objection to the same. He may do so within a week hence, but notice has to be sent to NOIDA and LIC to have their perspective. For the said purpose, notice can only be sent if the applicant, namely, Wisdom World Developers Pvt. Ltd., deposits a sum of Rs.15,00,00,000/- (Rupees fifteen crores only) before the Registry of this Court within a week hence. The Managing Director of the applicant-company shall remain personally present on the next date of hearing. If the amount is not deposited within the stipulated time, the Managing Director of the applicant-company shall face serious consequences.

In the course of hearing, it is submitted by Mr. M.L. Lahoty and Ms. Shobha, learned counsel appearing for some of the home buyers that this Court has directed that the possession of the flats can be taken by the home buyers, who intend to take the possession on 'as is where is basis'. It is urged by the learned counsel that they are inclined to take the possession but basic facilities are not provided by the developoer and, therefore, the condition is not fit enough to be habitable. For instance, if a flat is on the 11<sup>th</sup> floor, there is no lift to go to that floor and there is no water supply.

In view of the aforesaid, we direct the petitioners to file a status report with regard to the projects where major part of the work is complete and suggest a plan how to complete the balance work. Let the status report be filed by the next date of hearing."

In pursuance of above order eight Demand Drafts amounting to Rs.42,73,66,160/- (Rupees forty two crore seventy three lac sixty six thousand one hundred sixty only) have been handed over to Mr. Pawan Shree Agrawal, learned Amicus Curiae. Mr. Agrawal shall deposit the said drafts before the Registry of this Court.

As per our direction in the abovementioned order, M/s. Wisdom World Developers Pvt. Ltd. has deposited the amount of Rs.15,00,00,000/- (Rupees fifteen crores only). The said amount is directed to be kept in a short term fixed deposit with UCO Bank, Supreme Court Compound.

Pursuant to the above order, Mr. Liaulla Sheriff, Managing Director of the aforesaid company is also personally present.

Status report, as directed vide the above order, be filed within a week hence after serving a copy on the learned Amicus Curiae who in turn shall serve the same on the contesting parties.

In view of the obtaining situation, we issue the following directions :

(i) Out of the amount which is lying deposited in the Registry of this Court and the amount which is going to be deposited in the course of the day by way of Demand Drafts, an amount of Rs.25,00,00,000/- (Rupees twenty five crores) shall be disbursed. The amount shall be disbursed to home buyers who have already registered on the portal. Apart from the portal, the learned Amicus Curiae shall also take note of the decrees passed in favour of the home buyers. It will be obligatory on the part of the decree holders who have succeeded in the judgment to apprise the learned Amicus Curiae. Such home buyers shall also be entitled for disbursement. Be it clarified, the amount shall be disbursed on equalising on pro rata basis to those who intend to have refund. The remaining amount shall be invested in a short-term fixed deposit with UCO Bank, Supreme Court Compound.

(ii) Learned Amicus Curiae shall first carry out reconciliation keeping in view the order passed on 05.07.2018.

(iii) As the amount of Rs.15,00,00,000/- (Rupees fifteen crores) has been deposited by M/s. Wisdom World Developers Pvt. Ltd., let notice be issued to NOIDA and LIC who would have the authority in respect of the property. After the NOIDA and LIC put forth their stand, it will be open to the petitioners to file objections, if so advised.



(iv) Any one who is interested to take possession of the flats on 'as is where is' basis, may approach the learned Amicus Curiae who shall in his turn intimate the developer and if there is a possibility of possession being handed over on 'as is where is' basis, the said exercise shall be carried out.

(v) The amount deposited by M/s. Pioneer Urban Land & Infrastructure Limited shall be disbursed on equalising on pro rata basis, as per order dated 14.05.2018.

(vi) The Committee shall proceed with the auction and an amount of Rs.30,00,000/- (Rupees thirty lacs) be disbursed in favour of the Committee for the said purpose.

(vii) The fee schedule submitted by the Committee shall be satisfied by the Registry each month.

In the course of hearing, we have been apprised by the learned counsel for the parties who intend to take possession, that if an amount of Rs.21,00,00,000/- (Rupees twenty one crores) is given, 500 flats can be made ready. That is why we have directed disbursal of Rs.25 crores and kept the remaining amount in deposit. Let the Committee verify this aspect with the assistance of the learned Amicus Curiae and file a report before this Court within two weeks.

Issue notice on I.A. Nos.60016/2018; 60021/2018 and 72200/2018.

Let copies of the petitions be served on Mr. Agrawal who in turn shall serve the NOIDA and LIC.

Reply to I.A.No.85237/2018 filed on behalf of M/s. Housing Development Financial Corporation Limited be filed by developer within two weeks hence.

Let the matter be listed on 21.08.2018.

(Subhash Chander)  
AR-cum-PS

(H.S. Parasher)  
Assistant Registrar