

ITEM NO.302

COURT NO.1

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.10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(With IA No.73570/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 73548/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No.52822/2023 - APPROPRIATE ORDERS/DIRECTIONS and IA No.174136/2022 - CLARIFICATION/DIRECTION)

WITH S.L.P.(CrI) Nos.5978-5979/2017 (II-C)

(With IA No.85172/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 118046/2018 - CLARIFICATION/DIRECTION and IA No.83361/2020 - INTERVENTION APPLICATION)

Date : 12-04-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE M.R. SHAH

Mr. Pawanshree Agrawal, Amicus Curiae
Mr. Varun K. Chopra, Adv.

For Appellant(s)

Mr. Deepak Goel, AOR
Mr. Kamal Kumar Pandey, Adv.
Mr. Vipin Kumar, Adv.

SLPR 5978-79/2017

Mr. Siddhartha Dave, Sr. Adv.

Ms. Ranjeeta Rohatgi, AOR

SLPR 5978-79/2017

Ms. Anubha Agrawal, AOR

For Respondent(s)

**Mr. Pawanshree Agrawal, AOR
Mr. Varun K. Chopra, Adv.**

Mr. Sanjay Kumar Visen, AOR

**Mr. N Venkatraman, ASG
Ms. Anubha Agrawal, AOR**

**Mr. K.M. Nataraj, ASG
Mr. Shreekant Neelappa Terdal, AOR
Ms. Suhashini Sen, Adv.
Mr. T.A.khan, Adv.
Mr. Anish Kr.gupta, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Siddhant Kohli, Adv.
Dr. N. Visakamurthy, Adv.**

Ms. Pritha Srikumar, AOR

**Mr. Brijesh Kumar Tamber, AOR
Mr. Prateek Kushwaha, Adv.
Ms. Ayushi Mittal, Adv.
Mr. Yashu Rustagi, Adv.**

Mr. Sunil Fernandes, AOR

Mr. Aman Raj Gandhi, AOR

Mr. Rajan Chawla, AOR

Ms. Neha Sharma, AOR

Mr. Yashraj Singh Bundela , AOR

Mr. P.K. Jain, AOR

Mr. T.N. Singh, AOR

Mr. Kaushik Poddar, AOR

Ms. Manjula Gupta, AOR

Ms. Divya Roy, AOR

M/s. AV Global Chambers

Mr. Aditya Singh, AOR

Mrs. Swarupama Chaturvedi, AOR

Ms. Madhvi Divan, ASG

Mr. Mukesh Kumar Maroria, AOR

Ms. Chinmayee Chandra, Adv.

Ms. Shradha Deshmukh, Adv.

Mr. Siddhant Kohli, Adv.

Mr. Vishesh Kalra, Adv.

Ms. Nidhi Khanna, Adv.

Mr. Abhishth Kumar, AOR

Ms. Shruti Agarwal, AOR

Mr. Debmalya Chandra Banerjee, Adv.

Mr. Rohan Sharma, Adv.

Mr. Kartik Bhatnagar, Adv.

Mr. Anmol, Adv.

Mr. Nicholas Choudhury, Adv.

Mr. Shreesh Chadha, Adv.

M/s. Karanjawala & Co.

Mr. Sandeep Devashish Das, AOR

Mrs. Madhavi Divan, ASG

Mr. Rajan Kumar Chourasia, Adv.

Ms. Shraddha Deshmukh, Adv.

Mr. Chinmayee Chandra, Adv.

Ms. Nidhi Khanna, Adv.

Mr. Siddhant Kohli, Adv.

Mr. Arvind Kumar Sharma, AOR

Mrs. Aarthi Rajan, AOR

Mr. Adeel Ahmed, AOR
Mr. Raja Chatterjee, Adv.
Mr. Piyush Sachdev, Adv.
Mr. Idrish, Adv.

Mr. Rakesh Mittal, Adv.
Mr. D. Abhinav Rao, AOR

Mr. Praveen Agrawal, AOR

Mr. Pukhrambam Ramesh Kumar, AOR

Mr. Prithvi Pal, AOR

Ms. Charu Mathur, AOR

Ms. Charu Ambwani, AOR

Mr. Siddharth, AOR

Mr. Saurabh Ajay Gupta, AOR

Ms. Sunieta Ojha, AOR

Mr. Rajesh Kumar Chaurasia, AOR

Mr. Braj Kishore Mishra, AOR
Mr. Abhishek Yadav, Adv.

Mr. Nitin Saluja, AOR

Mr. P.R. Ramasesh, Adv.
Mr. Sanuj Das, Adv.
Mr. K Pramod Kumar, Adv.
Mr. Ankolekar Gurudatta, AOR

Mr. Kamal Mohan Gupta, AOR

Mr. K. Parameshwar, AOR
Ms. Arti Gupta, Adv.
Ms. Kanti, Adv.

Dr. Ashutosh Garg, AOR

Mr. Rajeev Singh, AOR

Ms. Sujata Kurdukar, AOR

Mr. Akshat Shrivastava, AOR

Mr. Ranjit Kumar Sharma, AOR

Mr. Shashibhushan P. Adgaonkar, AOR

Ms. Preeti Singh, AOR

Mr. R.K. Pandey, Adv.
Mr. Atul Sharma, AOR

Mr. A. Radhakrishnan, AOR

Ms. Meera Mathur, AOR

Mr. Rajiv Mehta, AOR

Ms. Misha Rohatgi, AOR

Mr. Rajesh Kumar Gautam, AOR
Mr. Anant Gautam, Adv.
Mr. Kartik Jindal, Adv.
Mr. Sumit Sharma, Adv.
Ms. Anani Achumi, Adv.
Ms. Madhumita Bagchi, Adv.

Mr. Sarad Kumar Singhania, AOR

Mr. Ansar Ahmad Chaudhary, AOR

Ms. Madhusmita Bora, AOR

Mr. Gopal Jha, AOR

Mrs. Kirti Renu Mishra, AOR

Mrs. Apurva Upmanyu, Adv.

M/s. Cyril Amarchand Mangaldas

Ms. Nidhi Mohan Parashar, AOR

Mr. Gagan Gupta, AOR

Mr. Chandan Kumar, AOR

Mr. Soumya Dutta, AOR

Mr. Vikrant Pachnanda, AOR

Mr. M.P. Vinod, AOR

Mr. Raj Kamal, AOR

Mr. Sunil Kumar Verma, AOR

Mr. Shariq Ahmed, Adv.

Mr. Tariq Ahmed, Adv.

Mr. Manish Kumar Gupta, AOR

Mr. Neeraj Kumar Gupta, AOR

Mr. Hrishikesh Baruah, AOR

Ms. Sunieta Ojha, AOR

Ms. Rakhi Ray, AOR

Mr. Sureshan P., AOR

Mr. Rajesh Singh, AOR

Mr. Syed Jafar Alam, AOR

Mr. Abhinav Mukerji, AOR
Mr. Akshay Shrivastava, Adv.

Mrs. B. Sunita Rao, AOR

Mr. Sumit Kumar, AOR

Mr. Sriram P., AOR

Mr. A. Karthik, AOR

Mr. Rajiv Dutta, Sr. Adv.
Mr. H.S. Bhullar, Adv.
Ms. Jasmine Damkewala, AOR
Ms. Vaishali Sharma, Adv.

Mr. Pranav Kumar, AOR
Mr. Sandeep Malik, Adv.
Mr. Abishake Sharma, Adv.
Mr. Inderjeet Singh, Adv.
Ms. Richa Yadav, Adv.
Mr. Sushil Kumar Singh, Adv.
Mr. Anuj Kumar, Adv.

Mr. Romy Chacko, AOR
Mr. Prashant Kumar, Adv.

Mr. Ravindra Kumar, Sr. Adv.
Mr. Binay Kumar Das, AOR
Ms. Priyanka Das, Adv.
Ms. Neha Das, Adv.

Ms. Charu Mathur, AOR

Mr. S. Rajappa, AOR

Mr. Roopansh Purohit, AOR

Mr. T. Mahipal, AOR

Mr. Somanatha Padhan, AOR

Mr. Tarun Gupta, AOR

Mr. S.R. Setia, AOR
Mr. Vikram Singh, AOR

Mr. Vivek Singh, AOR

Mr. Kumar Dushyant Singh, AOR
Mr. Shakti Singh Dhakrey, Adv.
Mrs. Pooja Singh, Adv.
Ms. Subasri Jaganathan, Adv.

Ms. Meera Mathur, AOR

Mr. Atul Kumar, AOR

Mr. Utkarsh Sharma, AOR
Mrs. Kaveri Vats, Adv.

Mr. C.K. Sasi, AOR

Mr. Sushil Kumar Singh, AOR

Mr. Mithu Jain, AOR

Mr. Raj Kishor Choudhary, AOR

Ms. Aswathi M.K., AOR

Mr. Gaurav Goel, AOR

Mr. Jay Kishor Singh, AOR

Mr. Arjun Harkauli, AOR

Mr. M.R. Shamshad, AOR

Mr. Anirudh Sharma, AOR

Mr. Akshat Kumar, AOR
Mr. D.K. Rustagi, Adv.

Mr. Dipesh Sinha, AOR

Mr. Sanjay Kumar Tyagi, AOR
Mr. Rajesh Kumar Chaurasia, AOR

Mrs. Geetha Kovilan, AOR

Ms. Madhvi Divan, ASG
Mr. Mukesh Kumar Maroria, AOR
Ms. Chinmayee Chandra, Adv.
Ms. Shradha Deshmukh, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Vishesh Kalra, Adv.
Ms. Nidhi Khanna, Adv.

Mr. Syed Jafar Alam, AOR

Mr. Akshat Shrivastava, AOR

Ms. Pallavi Langar, AOR

Mr. Amit Sharma, AOR

Mr. R.C. Kaushik, AOR

Mr. Ujjwal A. Rana, Adv.
Mr. Himanshu Mehta, Adv.
M/s. Gagrat & Co.

Mr. S. Udaya Kumar Sagar, AOR

Mr. Mayank Goel, AOR

Mr. Roshan Santhalia, AOR

Ms. Harsh Lata, AOR
Mr. Shobhit Jain, Adv.

Mr. Bhanoo Sood, Adv.

**Mrs. Rachna Gupta, AOR
Mr. Abhishek Misra, Adv.
Mrs. Deepika Mishra, Adv.
Mr. Kirti Vardhan Singh, Adv.
Mr. Anil Kumar Sinha, Adv.
Mr. Siddharth Narang, Adv.**

Mr. Sumit R. Sharma, AOR

Mr. P. V. Yogeswaran, AOR

Mr. Mohit Paul, AOR

**Mr. Ashwani Kumar, AOR
Mr. Anshay Dhatwalia, Adv.**

M/s. Udit Kishan & Associates

Mr. D.S. Chauhan, AOR

Mr. Abhay Anand Jena, AOR

Ms. Riddhi Sancheti, AOR

Ms. Shobha Gupta, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Ravindra Bana, AOR

Mr. Aakarsh Kamra, AOR

Mr. Siddhartha Jha, AOR

Mr. Somesh Chandra Jha, AOR

Mr. Ashwani Kumar Dubey, AOR

Mr. Preshit Vilas Surshe, AOR

Mrs. Geetha Kovilan, AOR

Ms. Priyanjali Singh, AOR

Mr. Raj Bahadur Yadav, AOR

Petitioner-in-person

Mrs. Madhvi Divan, ASG

Mr. K.M. Natraj, ASG

Mr. Ayush Puri, Adv.

Mrs. Praveena Gautam, Adv.

Mrs. Ruchi Kohli, Adv.

Mr. Siddhant Kohli, Adv.

Mr. Nidhi Khanna, Adv.

Mr. Sughosh Subramaniam, Adv.

Mrs. Alka Agarwal, Adv.

Mr. Santosh Kumar, Adv.

Mr. Rupesh Kumar, Adv.

Mr. Arvind Kumar Tewari, AOR

Mr. Sudhir Mahajan, Adv.

Mr. Ajit Kumar Ekka, AOR

Mr. S.K. Kulkarni, Adv.

Mr. M. Gireesh Kumar, Adv.

Mr. Ankur S. Kulkarni, AOR

Ms. Uditha Chakravarthy, Adv.

M/s. Kmnp Law Aor, AOR

Mr. K.K. Mohan, AOR

Mr. Omprakash Ajitsingh Parihar, AOR

Mr. Dushyant Tiwari, Adv.

Mr. Nishit Agrawal, AOR

Mr. Rajiv Ranjan Dwivedi, AOR

Mr. Sachin Jain, Adv.

Mr. Vishal, Adv.
Mr. Manoj Kumar Jha, Adv.
Mr. Ashish Singh, Adv.

Mrs. Gargi Khanna, AOR

Mr. C.K. Sasi, AOR

Mr. Abhishek Kumar Singh, AOR

Mr. Sriharsha Peechara, Adv.
Mr. Rajiv Kumar Choudhry, AOR
Ms. Pallavi, Adv.
Mr. Duvvuri Subrahmanya Bhanu, Adv.
Ms. Harshita Gupta, Adv.

Dr. Vinod Kumar Tewari, AOR

Mr. Sudhansu Palo, AOR
Mr. Budhadeva Palo, Adv.
Mrs. Ipsita Behura, Adv.

Mr. Nikilesh Ramachandran, AOR

Mr. Gaurav Goel, AOR

Mr. Amit Shrivastava, AOR

Mr. Rohit Amit Sthalekar, AOR
Mr. Ashish Choudhury, Adv.
Mr. Arpit Choudhury, Adv.

Mr. Sudhir Kulshreshtha, AOR

Mr. Yadav Narendra Singh, AOR

Ms. Kamakshi S. Mehlwal, AOR
Mr. Abhik Kumar, Adv.
Mr. Sanveer Mehlwal, Adv.
Ms. Geetanjali Mehlwal, Adv.
Ms. Shradha Agrawal, Adv.

Mr. Rinku Mathur, Adv.
Mr. Vikas Mehta, AOR
Mr. Sanjay Jain, AOR
Mr. Ashwani Garg, Adv.
Mr. Vijay Kumar, AOR
Mr. Udayaditya Banerjee, AOR
Ms. Rashmi Bansal, AOR
Mr. M.M. Kashyap, AOR
Mr. Kumar Mihir, AOR
Mr. Gopal Singh, Adv.
Mr. Gunjan Sharma, Adv.
Mr. Arvind Gupta, AOR
Mr. Yogesh Aggarwal, Adv.
Mr. Piyush Kumar Kamal, Adv.
Ms. Nazish Fatima, Adv.
Mr. Vipin Kumar Jai, AOR
Mr. V. K. Monga, AOR
Mr. Dhruv Tamta, AOR
Mr. Senthil Jagadeesan, AOR
Mr. Atishi Dipankar, AOR
Ms. Amrita Sarkar , AOR
Ms. Liz Mathew, AOR
Ms. Mallika Agarwal, Adv.
Mr. Shantanu Sagar, AOR
Mr. Sonal Jain, AOR

Ms. Filza Moonis, AOR

**Mr. Pankaj Jain, Adv.
Mr. Bijoy Kumar Jain, AOR**

Mr. Chandra Bhushan Prasad, AOR

**Mr. Abhishek Agarwal, AOR
Mr. Atul Sharma, Adv.
Mr. Akshay Kapoor, Adv.**

M/s. Devasa & Co.

**Mr. Neeraj Shekhar, AOR
Dr. Sumit Kumar, Adv.
Mr. Keshav Baheti, Adv.
Ms. Mrigna Shekhar, Adv.
Ms. Aarushi Singh, Adv.**

Mr. Milind Kumar, AOR

Mr. Abhinav, AOR

Mrs. Pragya Baghel, AOR

Mr. Bharat Bhushan, AOR

**Mr. Tapesk Kumar Singh, AOR
Mr. Aditya Pratap Singh, Adv.
Mr. Prashant Bhardwaj, Adv.**

Mr. Umang Shankar, AOR

Mr. Abhinav Shrivastava, AOR

Mr. Vineet Bhagat, AOR

Ms. Jaikriti S. Jadeja, AOR

Mr. Jatin Zaveri, AOR

Ms. Rashi Bansal, AOR
Mr. Mohit D. Ram, AOR
Mr. Archit Upadhyay, AOR
Ms. Shwetal Shepal, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Devendra Singh, AOR
Mr. Ashish Virmani, AOR
Mr. B. Krishna Prasad, AOR
Mr. Kaustubh Shukla, AOR
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Akhil Abraham Roy, Adv.
Mr. Abhishek Anand, Adv.
Ms. Unnimaya S., Adv.
M/s. K J John & Co.
Ms. Tulika Mukherjee, AOR
Mr. Siddhartha Sinha, AOR
Mr. Jinendra Jain, AOR
Mr. Gyan Prakash Srivastava, AOR
Mr. Divyesh Pratap Singh, AOR
Mr. M. Yogesh Kanna, AOR
Mr. S.D. Singh, Adv.
Ms. Meenu Singh, Adv.
Mr. Jitender Singh, Adv.

Mr. Siddharth Singh, Adv.
Mr. Ramkripal Singh, Adv.
Mr. Kartikay Bhargava, Adv.
Ms. Bharti Tyagi, AOR

Mr. Rajat Sehgal, AOR

Mr. Karan Bharihoke, AOR

Mr. Arjun Singh Bhati, AOR

Ms. Mumtaz Bhalla, AOR

Mr. Rabin Majumder, AOR
Ms. Manju Jetley, AOR

Mr. Tushar Singh, AOR

Mr. Vikram Hegde, Adv.
Ms. Hima Lawrence, AOR
Mr. Abhinav Hansaraman, Adv.

Ms. Astha Tyagi, AOR

Ms. Mrinal Gopal Elker, AOR
Mr. Saurabh Singh, Adv.

Ms. Awantika Manohar, AOR

Mr. Rahul Kaushik, AOR

Ms. Divya Swami, Adv.
Mr. Nikhil Swami, AOR

Mr. Avinash Sharma, AOR

Mrs. Anil Katiyar, AOR

Mr. Vikram Hegde, Adv.
Ms. Hima Lawrence, AOR
Mr. Abhinav Hansaraman, Adv.

Mr. Vivek Gupta, AOR

Mr. Pushpraj Singh, Adv.

Mr. Gp. Capt. Karan Singh Bhati, AOR

Ms. Shagun Matta, AOR

Mr. Prashant Vaxish, Adv.

Ms. Manisha Ambwani, AOR

Mr. Shashank Manish, AOR

Ms. Nidhi Sahay, Adv.

Mr. E.C. Agrawala, AOR

Ms. Anshula Vijay Kumar Grover, AOR

Mr. Ravi Panwar, AOR

Mr. Amit Agrawal, AOR

Mr. Arup Banerjee, AOR

Mr. Sanjeev Sharma., Adv.

Mr. Vishal Arun, AOR

Mr. P. R. Rajhans, Adv.

Mr. Jyoti Kumar Singh, Adv.

Mr. Amarnath Gupta, Adv.

Mr. Janmejay Verma, Adv.

Mr. Navin Kumar Singh, Adv.

Mrs. Sampa Sengupta Ray, Adv.

Ms. Hardikaa, Adv.

Mr. Rajesh Kumar, AOR

Mr. Abhay Kumar, AOR

Applicant-in-person, AOR

Mr. M. P. Devanath, AOR

Mr. S. K. Verma, AOR

Ms. Madhurima Tatia, AOR

Mr. Siddharth Batra, AOR

Ms. Rohini Prasad, AOR

Mr. A. Venayagam Balan, AOR

Mr. Divyesh Pratap Singh, AOR

Mr. Kirat Singh Nagra, Adv.

Mr. Karik Yadav, Adv.

Mr. Parinay Vasandani, Adv.

Mr. Manhar Singh Saini, Adv.

M/s. D.S.k. Legal

Mr. Balaji Srinivasan, AOR

Mr. Sushil Kumar Sharma, Adv.

Mr. Pahlad Singh Sharma, AOR

Mr. Virendra Kumar, Adv.

Mr. Manish Kumar Mishra, Adv.

Mr. Himanshu Shekhar, AOR

Mr. M L Lahoty, Adv.

Mr. Paban Kumar Sharma, Adv.

Mr. Anchit Sripat, Adv.

Mr. Pranab Kumar Nayak, Adv.

Mr. Arvind Kumar, Adv.

Mr. Sumant Bharadwaj, Adv.

Mr. Vedant Bharadwaj, Adv.

Ms. Mridula Ray Bharadwaj, AOR

Mr. Tanay Hari Har Lal, Adv.

Mrs. Surbhi Sharma, Adv.

Ms. Apoorva Chauhan, Adv.

Mr. Awanish Kumar, AOR

Mr. Aldanish Rein, AOR

Mr. Kaustubh Anshuraj, AOR

Mr. Krishna Kumar Singh, AOR

Mr. Ashwarya Sinha, AOR

Mr. Dharmendra Kumar Sinha, AOR

Mr. Partha Sil, AOR

Ms. Upasana Nath, AOR

Ms. Rashmi Nandakumar, AOR

Mr. Shantanu Krishna, AOR

Mr. Isha Mittal, Adv.

Mr. Shashank Shukla, Adv.

Mr. Animesh Tripathi, Adv.

Mr. Sidharth Sarthi, Adv.

Mr. Ankit Mishra, Adv.

Ms. Jyoti Mendiratta, AOR

Mr. Kaushik Choudhury, AOR

Mr. Chitranshul A. Sinha, Adv.

Mr. Jaskaran Singh Bhatia, Adv.

M/s. Dua Associates

Mr. Ayush Sharma, AOR

Mr. Vaibhav Kumar, AOR

Mr. Aneesh Mittal, AOR

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

IA No 73570/2023 In IA No 52822/2023 In IA No 57580/2021 In CA 10856/2016

- 1 The government nominated Board of Unitech has sought a direction that the applicant should not be liable to pay stamp duty and penalty on the development agreement which was executed with APIIC, pending the arbitral proceedings.
- 2 The sole Arbitrator has by an order dated 31 March 2023, deferred the hearing awaiting the outcome of the Interlocutory Application in this Court.
- 3 In the facts and circumstances of this case, we are of the view that it would be appropriate to direct that 50% of the stamp duty shall on being assessed to duty by the competent authority be paid by Unitech Limited, while 50% of the stamp duty shall be paid by APIIC. The payment shall be made within a period of two weeks of the date of assessment.
- 4 For the present, the payment of the penalty shall stand deferred to await the final outcome of the arbitral proceedings. The arbitration shall proceed in view of the above directions .
- 5 The Interlocutory Application is disposed of in the above terms.

IA No 73548 of 2023 In CA No 10856 of 2016

- 1 Mr Ravindra Kumar, senior counsel appearing on behalf of the NOIDA seeks an adjournment of a week to put in a reply.

- 2 During the course of the hearing, we have indicated to Mr N Venkataraman, Additional Solicitor General and Mr Ravindra Kumar, senior counsel that it would be appropriate if a joint meeting is held between the HoD of the Planning Department of the authority with the authorized representative of the Unitech Limited so that all the formalities required for processing the building plans and for the grant of approvals are completed. It has been agreed that this exercise shall be carried out by 18 April 2023.
- 3 List the Interlocutory Application on 26 April 2023 at 3 pm.

IA No 174136 of 2022 In CA No 10856 of 2016

- 1 The applicant, Rajesh Malik, has sought bail before the Special Judge (PMLA), Patiala House Courts. The learned trial Judge by an order dated 29 October 2022 indicated that the court would await the grant of formal permission by this Court to enable the trial Judge to consider the application for bail.
- 2 We clarify that the learned trial Judge would be at liberty to consider the application in accordance with law after hearing the objections of the Enforcement Directorate.
- 3 The Interlocutory Application is disposed of.

SLP (Crl) Nos 5978-5979 of 2017

- 1 This order is in continuation of the order dated 18 March 2021 by which this Court stayed the order dated 13 January 2021 of the Chief Metropolitan Magistrate, Patiala House Courts granting bail to the accused, Sanjay Chandra and Ajay Chandra.

- 2 By the earlier order, this Court has issued a notice to show cause to the two accused.
- 3 By an order of this Court dated 30 October 2017, the two accused were admitted to bail subject to the condition that they shall deposit a sum of Rs 750 crores in the Registry of this Court by 31 December 2017. By an order dated 14 August 2020, passed in IA Nos 63800 and 63683 of 2020, this Court dealt with the applications filed by the accused for the grant of bail. The Interlocutory Applications filed by the accused were rejected on a specific finding that the conditions which were imposed by this Court in the order dated 30 October 2017 were not complied with. Paragraphs 7, 8 and 10 of the order dated 14 August 2020 have been reproduced in the previous order of 18 March 2021.
- 4 Despite the earlier order of this Court, the accused moved applications before the High Court of Delhi in Bail Application Nos 1573 and 1574 of 2017 seeking permission to withdraw the applications with liberty to approach the trial court. Thereafter, on 13 January 2021, the Chief Metropolitan Magistrate directed that the accused be released on bail.
- 5 In our order dated 18 March 2021, this Court observed as follows:

“Prima facie, at this stage, we are of the view that the manner in which the accused were granted liberty by the Delhi High Court to move the Metropolitan Magistrate for the grant of bail and the order of the Metropolitan Magistrate are a shocking exercise of judicial power and a breach of judicial discipline. In the order of this Court dated 14 August 2020, the specific submission which was considered was that the order subject to which interim bail had been granted on 30 October 2017 had been complied with by the deposit of Rs 750 crores. There are specific findings in the order of this court that the deposit of Rs 750 cores was directed by Mr Sanjay Chandra and Mr Ajay Chandra and the amount which had been realized in the Registry was as a result of the monetization of the assets of

Unitech Limited under the auspices of the Justice Dhingra Committee. That apart, the Court adverted to the serious circumstances which had come on the record in the form of the report of the forensic auditors, M/s Grant Thornton which indicated money laundering and siphoning of company funds to offshore locations. These funds are the moneys paid by the home buyers. In the teeth of the observations of this Court, we find that the conduct of the accused in moving an application for withdrawal before the Delhi High Court with liberty to move the Magistrate for bail and seeking regular bail before the Metropolitan Magistrate is an overreach of the jurisdiction of this Court.”

6 Moreover, the Court in paragraph 10 noted thus:

“..... As regards the quantum of deposit, the order of this Court dated 14 August 2020 expressly directed that the deposit which was required in terms of the order dated 30 October 2017 was by the accused and that the amounts which were realized by the monetization of assets of the company could not be regarded as a deposit by the accused. Moreover it is evident that the accused themselves had been moving this Court in the interim for bail on medical grounds. Though, this Court is seized of the entire dispute pertaining to the defaults by Unitech Limited and a Board of Management appointed by the Union of India has been placed in charge, several other steps have been taken including conducting a forensic audit and directing the agencies of the Union of India to investigate into all aspects of the matter. In this backdrop, it would be unacceptable for the accused, during the pendency of the proceedings before this Court to seek the liberty of the Delhi High Court and then move the Chief Metropolitan Magistrate and obtain an order of bail. The finding of the Magistrate to the effect that the accused have already deposited more than Rs 750 crores “as directed by the Supreme Court” with its Registry is plainly incorrect and a deviation from the findings specifically recorded in the order dated 30 October 2017. We are, therefore, of the clear view that an attempt has been made to overreach the process of this Court and an order of bail has been sought and obtained, to defeat the control which is being exercised by this Court.”

- 7 In response to the order of this Court issuing notice to the accused, Mr Siddhartha Dave, senior counsel has appeared on their behalf. A reply has been filed.
- 8 We have also heard Ms Suhashini Sen, counsel for the Delhi Police.
- 9 Having regard to the reasons which have weighed in the earlier order of this Court, though *prima facie* at that stage, we are of the view that the order of the Chief Metropolitan Magistrate dated 13 January 2021 is erroneous and unsustainable and should be set aside. In the previous order of this Court dated 18 March 2021, there is a detailed elaboration of the events as they transpired since the order dated 30 October 2017. We are of the view that the Chief Metropolitan Magistrate was patently in error in allowing the application for the grant of bail despite the previous orders of this Court dated 30 October 2017 and 14 August 2020.
- 10 We accordingly set aside the order of the Chief Metropolitan Magistrate dated 13 January 2021. The accused have surrendered in pursuance of the order of this Court dated 18 March 2021. In the event that they seek to apply for bail afresh, they shall move this Court for appropriate directions to enable them to do so.
- 11 List the following on 26 April 2023 at 3 pm:
 - (i) IA No 73548 of 2023 In CA No 10856 of 2016
 - (ii) SLP(C) No 9572 of 2007;
 - (ii) Reports submitted by Mr Justice Abhay Manohar Sapre; and

(v) Resolution Plan.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar