

ITEM NO.301

COURT NO.3

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. 50683/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.77795/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No.12105/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.97388/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.80954/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.50706/2021 - APPROPRIATE ORDERS/DIRECTIONS IA No.77813/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No.70286/2020 - CLARIFICATION/DIRECTION, IA No.104097/2021 - CLARIFICATION/DIRECTION, IA No.104016/2021 - CLARIFICATION/DIRECTION, IA No.134992/2020 - EARLY HEARING APPLICATION, IA No.79304/2020 - INTERVENTION APPLICATION, IA No.77794/2022 - INTERVENTION APPLICATION, IA No.70271/2020 - INTERVENTION APPLICATION, IA No.104094/2021 - INTERVENTION APPLICATION, IA No.81090/2020 - INTERVENTION APPLICATION, IA No.104012/2021 - INTERVENTION APPLICATION, IA No.77802/2022 - INTERVENTION APPLICATION, IA No.47795/2021 - INTERVENTION/IMPLEADMENT, IA No.12103/2020 - INTERVENTION/IMPLEADMENT, IA No.100828/2019 - INTERVENTION/IMPLEADMENT, IA No.80947/2020 - INTERVENTION/IMPLEADMENT, IA No.50704/2021 - INTERVENTION/IMPLEADMENT and IA No.5463/2021 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

WITH S.L.P.(Cr1) Nos.5978-5979/2017 (II-C)

(With IA No. 118046/2018 - CLARIFICATION/DIRECTION)

Date : 17-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

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Ms. Heney Maini, Adv.
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Mr. Kaushik Choudhary, Adv.

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

I Re: refund

- 1 The learned Additional Solicitor General has submitted a convenience note, pursuant to the order of this Court dated 27 July 2022. The convenience note contains the following proposal for vetting the claims of flat buyers and FD holders who require disbursement of funds for urgent medical needs:

“Mr. Justice Sapre has indicated that he would like to peruse the medical documents submitted with the assistance of a qualified doctor. He has also proposed to grant hearing, through virtual mode, to such claimants for completely understanding their medical needs for which refund is sought to be claimed. Hon’ble Mr. Justice Sapre has given a tentative time schedule of 16 days (2 sessions each day) in the month of September for holding such virtual meetings.

4 Unitech would upload on its website list of names of such persons (FD Holders and homebuyers), alongwith the date on which their cases would be heard and a link for joining the meet online. Such persons can join online, at their convenience, from their mobile phones, residences etc. so that no inconvenience is caused to them.

5 After, the process is over, report shall be submitted to the Hon’ble Court, alongwith recommendations for release of amounts in deserving cases. Directions can thereafter be issued to the Registry to release amounts directly to the account of such persons.”

- 2 It is anticipated that Justice A M Sapre would submit his report by 7 October 2022.

- 3 List the proceedings on 13 October 2022 at 3 pm for consideration of the report.

II Land Sale Policy

- 4 In pursuance of the order dated 20 April 2022, Justice A M Sapre has held meetings with the management and the Directors of Unitech on six days, between 21 April 2022 and 29 June 2022. Justice Sapre has also visited land sites situated in Chennai, Hyderabad, Kochi, Goa and Sindhudurg in Maharashtra. The SOP for the monetization of land assets, as approved by Justice Sapre, is permitted to be implemented. Justice Sapre has made the following recommendations:

“Recommendations made by Hon’ble Mr. Justice Sapre are to:

(i) Get the valuation of land done at today’s market rate by 02 independent valuers, one being a government approved local valuer;

(ii) Lands be surveyed and demarcated with the help of revenue authorities and encroachments removed;

(iii) Applications be made to respective State Governments to get land status changed from ‘wet’ to ‘dry’ in Kerela and change of land use from ‘agricultural’ to ‘non-agricultural’ in Tamil Nadu. For facilitating the same, directions be issued by this Hon’ble Court;

(iv) Pay outstanding dues and taxes and get records updated.

8 M/s MSTC Limited, a Central Public Sector Enterprise (CPSE) under the Ministry of Steel has been engaged as Auctioneers for conducting e-auction through their already existing web portal. MSTC has also been conducting auctions in the Amrapali matter, pending before the co-ordinate bench of this Hon'ble Court. Detailed meetings were held with their team to understand their process, working and fees, which has been agreed to be payable only on completion of successful transaction."

- 5 The above recommendations of Justice Sapre are duly approved. The concerned revenue authorities shall duly cooperate in implementing the directions. Applications to be submitted to the State of Kerala shall also be duly processed. The SOP, as approved by Justice Sapre, contemplates that a Committee of five Directors shall steer the sale of land assets of which three Directors shall constitute the coram. The Committee would seek the assistance and guidance of Justice Sapre, when required. The recommendations of the Committee are to be placed before the Board of Directors for its decision. Justice Sapre would be a Special Invitee at the meeting of the Board of Directors. If a note of dissent is recorded by Justice Sapre in respect of any decision of the Board of Directors in regard to the sale of land assets, the decision shall not be implemented without the prior permission of the Court.

III Tendering Process

- 6 Justice Sapre has held meetings with the management and team leaders of all 5 PMCs and EIL on six days between 23 May 2022 and 17 June 2022. It is anticipated that about 135 tenders would be floated which process will be done in lots of 20 to 25 tenders with an intervening gap of 15 to 20 days to ensure maximum participation from bidders. This is a continuous process

which will be undertaken in parallel with a likely time-line of 90 to 100 days for each lot. The convenience note submitted by the Additional Solicitor General states that:

“Projects, buildings and structures were left at different stages of construction and have been lying as such for a number of years, without any repairs and maintenance. They have been exposed to the weather conditions, which would have led to deterioration. Before undertaking any further construction on such structures, it is important to ensure safety of the structures on which further construction has to be done since works have been lying stalled for many years. Therefore, IIT Roorkee, IIT Chennai and Jadavpur University (West Bengal) have been engaged for (i) getting the proof-checking of structural designs of under-construction high-rise buildings, and for (ii) Health Safety Audit of all such high-rise structures. This is very important for the safety of the homes and the homebuyers. It will instil their confidence. Necessary remedial measures, wherever required, will be carried out only after the IITs complete their audit in this behalf.”

- 7 Justice A M Sapre has recommended that tender documents be kept ready for issuance and that EIL be directed to complete the work of verification expeditiously.
- 8 A detailed note regarding the tendering process has been submitted by Justice A M Sapre after careful evaluation.
- 9 In view of the above exercise, there shall be a direction to the effect that the the tendering process be completed in 4 to 5 lots upon confirmation of the availability of finance.

IV Underlying Financials

- 10 Justice A M Sapre has submitted a note after enquiring into the requirement, availability and source of funds for the completion of projects, prior to the

issuance of tenders. The recommendations by Justice Sapre are to the following effect:

- “(i) Funds from above mentioned sources shall be committed only for construction purposes and should not be diverted for any other purpose to ensure uninterrupted construction;
- (ii) Homebuyers be directed to make payments in time as per the Revised payment Plan to be notified shortly;
- (iii) Banks be directed to ensure timely release of unpaid amount of home loans already sanctioned to homebuyers;
- (iv) Tendering process should commence only after there is a direction regarding availability of committed funds.”

11 In view of the above recommendations, we pass the following order:

- (i) Funds receivable from homebuyers and from unsold inventory be committed only for construction purposes and should not be diverted for any other purpose to ensure uninterrupted construction (subject to such further orders as may be passed by this Court periodically);
- (ii) The Revised Payment Plan proposed by the Management of Unitech in terms of which the home buyers would be required to make payments shall be uploaded on the web portal of Unitech within forty-eight hours;
- (iii) The home buyers who wish to make their suggestions in response to the proposed payment plan would be at liberty to email them to the Board of Management of Unitech;

- (iv) The suggestions, if any, that are received will be collated and placed before this Court separately so as to facilitate the passing of orders by this Court in regard to the payment plan to be adhered to by the home buyers;
- (v) The Board of Management shall together with the payment plan also upload Document IV (contained in the working papers before this Court)containing the tentative time-line for the completion of the residential projects; and
- (vi) The Board of Management has also sought a direction to the banks to ensure the timely release of unpaid home loans already sanctioned to home buyers. In the event that the home buyers have any suggestions in that regard, the same may be placed before the Board of Management of Unitech in the same manner as indicated above, which will be considered on the next date.

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

12 List the following on 13 October at 3 pm:

- (i) Report submitted by Mr Justice Abhay Manohar Sapre;
- (ii) Status Report of DG (Prisons);
- (iii) Action Taken Report III, IV & V;
- (iv) Issue of refund of the age group 65-75 years and above 75 years;
- (v) IA No 100828 of 2019 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;
- (ix) IA No 50683 of 2021 in Civil Appeal No 10856 of 2016;
- (x) IA Nos 77794 and 77795 and 77802 and 77813 of 2022;
- (xi) IA Nos 12103/2020, 12105/2020, 70286/2020, 70271/2020, 134992/2020, 104012/2021, 104016/2021, 104094/2021 and 104097/2021;
- (xii) IA Nos 83361 of 2020 and 85172 of 2020;
- (xiii) SLP(C) No 9572 of 2007 [*City Infrastructure India Pvt Ltd vs New Okhla Industrial Development Authority and Others*].

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

(SAROJ KUMARI GAUR)
Court Master