

ITEM NO.301

Court 4 (Video Conferencing)

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 CrI. M.P. Nos.26041/2020, 63800/2020, 63801/2020 IN SLP(CRL)NO.5978-5979/2017 alongwith letter dated 14.05.2020 of the Ld. Amicus Curiae is to be listed on 31.07.2020)

WITH

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

(IA No. 63800/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 26041/2020 - CLARIFICATION/DIRECTION, IA No. 63801/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA no 63683 of 2020 and IA No 63686 of 2020)

Date : 31-07-2020 This appeal was called on for hearing today.

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UPON hearing the counsel the Court made the following

O R D E R

A resolution plan has been submitted by the newly constituted Board of Unitech Limited. In order to disseminate information of the resolution plan to stake holders, we request the *amicus curiae*, Mr Pawanshree Agrawal, to upload a copy of the plan, together with IA No 64112 of 2020 filed by the new Board on the web portal maintained by him in pursuance of the orders of this Court. The *amicus curiae* will collate suggestions received and tabulate them in his report. Suggestions shall be submitted to the *amicus curiae* within a period of ten days of the uploading of the resolution on the web portal. The *amicus curiae* shall share the suggestions which are received by him with counsel who has entered appearance on behalf of the new Board of Directors.

List the application on 24 August 2020.

Status Report dated 29 July 2020 of the *amicus curiae*

(1) FD Holders

By the order of this Court dated 10 February 2020, Rs 47.4 crores is to be released to fixed deposit holders of the age of sixty years and above. The *amicus curiae* has indicated that advance receipts have not been issued by the Registry. The *amicus curiae* states that he has submitted a chart to the Registry indicating the names and amounts to be disbursed to the fixed deposit holders.

The Registry is directed to commence the process within one week and complete it within a period of three weeks of commencement.

Since many fixed deposit holders could not register on the portal, the *amicus curiae* is permitted to reopen the portal for fixed deposit holders for a period of two weeks.

(2) Ex-Employees

The *amicus curiae* states that the process of initiating payments of the provident fund and other dues of ex-employees has commenced. The *amicus curiae* has stated that the amounts would be transferred to the Regional Provident Fund Commissioner, Delhi (South), who may in turn be directed to deposit the allocated sums in the individual accounts of the employees with liberty to the employees to withdraw them.

Ms Tara Ganju and Ms Rashi Bansal appearing on behalf of some of the ex-employees, submit that course of action suggested by the *amicus curiae* will be cumbersome and cause delay since the erstwhile management of Unitech Limited had opened accounts with multiple UANs in respect of the same employee.

In order to facilitate the disbursement of the PF and other dues to the former employees on an expeditious basis, we direct that the amounts shall be disbursed by the Registry in the names of the concerned ex-employees, as indicated in the chart to be submitted by the *amicus curiae*. The amount disbursed for the PF dues of each employee shall be separately communicated by the Registry to the Regional Provident Fund Commissioner, Delhi (South), in terms as indicated by the *amicus curiae*. The Regional Provident Fund Commissioner shall thereafter adjust the amount indicated against the outstanding dues in relation to each of the employees.

The *amicus curiae* is permitted to open the web portal for ex-employees for a period of two weeks in order to enable claims to be received from ex-employees who were unable to register their names on the web portal.

(3) Report of the Justice Dhingra Committee

(i) Bangalore Land Sale

Despite the order dated 10 February 2020, directing Devas Global LLP to deposit the balance consideration payable to Unitech Limited, together with interest at 12% per annum within a period of four weeks, the order of this Court has not been complied with. An undertaking of Devas Global LLP was recorded by the Court. Devas Global LLP filed an application on 23 February 2020 for an extension of time. Even the extended period which was sought has expired. Contempt Petition (Civil) No 442 of 2020 has been filed for non-compliance.

Based on the facts which have emerged before this Court, we are prima facie of the view that a case has been made out for initiating contempt proceedings against Devas Global LLP for breach of the undertaking. Accordingly, we issue notice to Devas Global LLP and its partners, returnable on 24 August 2020. The partners of Devas Global shall remain present before this Court on the next date of listing on the video conferencing facility to show cause why they should not be proceeded against.

In order to enable Devas Global LLP and its partners to demonstrate their *bona fides*, we grant them time until 21 August 2020 to deposit the balance consideration in accordance with the order dated 10 February 2020. We clarify that this will not amount to an extension of time which was granted earlier since the time has already expired. This opportunity is being granted in order to demonstrate their *bona fides*.

(ii) Chennai Land Sale

By the order of this Court dated 20 January 2020, Priadarshini Foundations Pvt Ltd was directed to deposit the balance consideration (INR 110 Cr overdue till 31 January 2020), together with 12% interest; of which 50% was to be deposited before 29 February 2020 and the balance by 31 March 2020. No payment towards the above

amount has been made. The prospective purchaser has not responded to the email dated 4 February 2020 of the Justice Dhingra Committee.

In this view of the matter, we are of the view that having due regard to the previous order and persistent default of Priadarshini Foundations Pvt Ltd, the earnest money of INR 30 crores should be forfeited and the balance land be put up for sale again. However, we grant time to Priadarshini Foundatons Pvt Ltd to pay the balance on or before 21 August 2020, failing which the earnest money of INR 30 crores shall stand forfeited without further reference to the court and the land shall be put up for sale again.

The hearing of the Unitech group of matters commenced at 12.45 pm. Since morning, there has been a disruption of the internet network resulting in a loss of connectivity. One of the members of the Bench (Hon'ble Mr Justice M R Shah) will not be available for judicial work during the course of the next week.

In the circumstances, we direct that the further consideration of the report of the amicus curiae shall be taken up on 14 August 2020. Other interlocutory applications listed today shall be taken up on that day.

IA No 63800 of 2020

Shri Sanjay Chandra has been granted interim bail by the previous order of this Court dated 3 July 2020. The court has been unable to take up the application as a result of the disruption of connectivity as adverted to above. Hence, we direct that the interim bail shall stand extended until the next date, namely 14 August 2020.

List the application on 14 August 2020.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER