

ITEM NO.18

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.210625/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 205642/2023 - APPROPRIATE ORDERS/DIRECTIONS and IA No.210624/2023 - RECALLING THE COURTS ORDER)

WITH S.L.P.(C) No.9572/2007 (XI)

(With IA No.162939/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 35051/2019 - CLARIFICATION/DIRECTION, IA No.12/2013 - EXEMPTION FROM FILING O.T., IA No.118081/2019 - INTERVENTION APPLICATION, IA No. 13/2016 - PERMISSION TO FILE ANNEXURES, IA No.11/2013 - PERMISSION TO FILE ANNEXURES, IA No.10/2013 - PERMISSION TO FILE ANNEXURES, IA No. 9/2011 - PERMISSION TO FILE ANNEXURES)

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

(With IA No.101566/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 101563/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No.101561/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No.101560/2023 - APPROPRIATE ORDERS/DIRECTIONS)

C.A. No.2496-2497/2020 (XVII-A)

(With IA No.103106/2020 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 03-11-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE MANOJ MISRA

Mr. Pawanshree Agrawal, AOR (Amicus Curiae)  
Mr. Varun K. Chopra, Adv.

**For Appellant(s)**

Mr. Deepak Goel, AOR  
Mr. Mithilesh Kumar Jaishwal, Adv.  
Mr. Jitendra Bharti, Adv.  
Mr. Ajay Kumar Singh, Adv.  
Ms. Rubi Kumari, Adv.  
Ms. Baby Devi Bonia, Adv.  
Ms. Alka Goyal, Adv.  
Ms. Urvashi Sharma, Adv.  
Mr. Girdhari Singh, Adv.

SLPC 9527/2007

Mr. Joshua Samuel, Adv.  
Mr. Sahil Tagotra, AOR

SLPR 5978-79/2017

Mr. Siddhartha Dave, Sr. Adv.  
Mr. Vishal Gosain, Adv.  
Mr. Anuroop Chakravarti, Adv.  
Ms. Ranjeeta Rohatgi, AOR  
Ms. Aarushi Singh, Adv.  
Mr. Vishal Banshal, Adv.  
Mr. Abhishek S More, Adv.  
Ms. Neeha Nagpal, Adv.

SLPR 5978-79/2017

Mr. N. Venkataraman, ASG  
Ms. Anubha Agrawal, AOR

CA 2496-97/2020

Mr. Shikhil Suri, Adv.  
Mrs. Madhu Suri, Adv.  
Ms. Jyoti Suri, Adv.  
Ms. Wamika Chadha, Adv.  
Ms. Vidhi Kapoor, Adv.  
Ms. Vidushi Jain, Adv.  
Mr. T.R.B. Sivakumar, AOR

**For Respondent(s)**

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

Mr. Lokesh Sinhal, Sr. AAG  
Mr. B.K. Satija, A.A.G.

Mr. Samar Vijay Singh, AOR  
Mr. Keshav Mittal, Adv.  
Ms. Sabarni Som, Adv.

**Respondent-in-person**

Mr. K.M. Nataraj, ASG  
Mr. Shreekant Neelappa Terdal, AOR  
Mr. M.K. Maroria, Adv.  
Ms. Suhashini Sen, Adv.  
Mr. T.A. Khan, Adv.  
Mr. Chinmayee Chandra, Adv.  
Mr. Siddhant Kohli, Adv.

Mr. Nikhil Nayyar, Sr. Adv.  
Ms. Pritha Srikumar Iyer, AOR  
Mr. Naveen Hegde, Adv.  
Ms. Mansi Binjrajka, Adv.

Mr. Ajay Kohli, Adv.  
Mr. Mohit D. Ram, AOR  
Ms. Monisha Handa, Adv.  
Mr. Rajul Shrivastav, Adv.  
Mr. Anubhav Sharma, Adv.  
Mr. Bhagirath N.patel, Adv.

Mr. N Venkataraman, ASG  
Ms. Anubha Agrawal, AOR

Mr. Brijesh Kumar Tamber, AOR  
Mr. Vinay Singh Bist, Adv.  
Mr. Prateek Kushwaha, Adv.  
Mr. Yashu Rustagi, Adv.  
Mr. Sahas Bhasin, Adv.

Ms. Rohini Prasad, AOR

Mr. Aman Preet Singh Rahi, Adv.  
Mr. A. Venayagam Balan, AOR  
Mr. C.M. Sundaram, Adv.  
Mr. Puneet Thakur, Adv.  
Mr. Kiritkumar Govindlal Sheth, Adv.  
Mr. Gaurav Pal, Adv.

Mr. Rajesh Kumar Chaurasia, AOR

Ms. Shruti Agarwal, AOR

Mr. Sunil Fernandes, AOR

Mr. Aman Raj Gandhi, AOR

Mr. Rajan Chawla, AOR

Mrs. Aarthi Rajan, AOR

Mr. Adeel Ahmed, AOR

Mr. Raja Chatterjee, Adv.

Mr. Piyush Sachdev, Adv.

Mr. Idrish, Adv.

Ms. Anupama Gupta, Adv.

Ms. Riya Dutta, Adv.

Ms. Sana Parveen, Adv.

Ms. Lilly Biswas, Adv.

Mr. Ajit Kumar Sinha, Sr. Adv.

Mr. Govind Jee, AOR

Mr. Omanakuttan K K, Adv.

Mr. Kartikeya Khanna, Adv.

Mr. Shivendu Prakash, Adv.

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, AOR

Mr. Aditya Singh, AOR

Mrs. Swarupama Chaturvedi, AOR

Mr. S.V. Raju, ASG

Mr. Mukesh Kumar Maroria, AOR

Mr. Vishesh Kalra, Adv.  
Ms. Nidhi Khanna, Adv.  
Ms. Chinmayee Chandra, Adv.  
Ms. Shradha Deshmukh, Adv.  
Mr. Siddhant Kohli, Adv.  
Mr. Zoheb Hussain, Adv.

Ms. Meera Mathur, AOR

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

M/s. Karanjawala & Co.

Mr. Sandeep Devashish Das, AOR

Mr. Vikramjeet Banerjee, A.S.G.  
Mr. Arvind Kumar Sharma, AOR  
Ms. Shraddha Deshmukh, Adv.  
Mr. Siddhant Kohli, Adv.  
Mr. Rajan Kumar Chourasia, Adv.  
Ms. Nidhi Khanna, Adv.  
Mr. Chinmayee Chandra, Adv.  
Mr. Amrish Kumar, Adv.

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

Dr. Ashutosh Garg, AOR

M/s. Juris Corp.

Mr. Gaurav Sharma, AOR

Mr. Praveen Agrawal, AOR

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Divyasana Rajkumari, Adv.

Mr. Prithvi Pal, AOR  
Mr. Sanjay Kumar Yadav, Adv.  
Mr. D.S. Kauntae, Adv.

Ms. Charu Mathur, AOR

Ms. Charu Ambwani, AOR

Mr. Siddharth, AOR  
Mr. Anshul Saxena, Adv.

Mr. Saurabh Ajay Gupta, AOR

Ms. Sunieta Ojha, AOR

Mr. M.P. Vinod, AOR

Mr. Rajiv Mehta, AOR

Mr. Nitin Saluja, AOR

Mr. Ankolekar Gurudatta, AOR

Mr. Kamal Mohan Gupta, AOR

Mr. Ansar Ahmad Chaudhary, AOR

Ms. Madhusmita Bora, AOR  
Mr. Pawan Kishore Singh, Adv.  
Mr. Dipankar Singh, Adv.

Mr. Shankar Divate, AOR  
Mr. L.B. Rai, Adv.  
Mr. Kartik Rai, Adv.

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. Sunklan Porwal, Adv.

Ms. Manorama Maish, Adv.

Ms. Saumya Dwivedi, Adv.

Ms. Kumkum Mandhanya, Adv.

Mr. Rishabh Munjal, Adv.

Mr. Atul Sharma, AOR

Mr. A. Radhakrishnan, AOR

Mr. A. Karthik, AOR

Mr. Shivi Sanyam, Adv.

Mr. Raj Kamal, AOR

Ms. Misha Rohatgi, AOR

Mr. Rajesh Kumar Gautam, AOR

Mr. Anant Gautam, Adv.

Mr. Samir Mudgil, Adv.

Ms. Shivani Sagar, Adv.

Mr. Dinesh Sharma, Adv.

Mr. Sarad Kumar Singhanian, AOR

Mr. Hrishikesh Baruah, AOR

Ms. Sunieta Ojha, AOR

Ms. S. Ramamani, 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. Kumar Dushyant Singh, AOR**

**Ms. Meera Mathur, AOR**

**Mr. Sunil Kumar Verma, AOR**

**Mr. Manish Kumar Gupta, AOR**

**Mr. Neeraj Kumar Gupta, AOR**

**Mr. Ravindra Kumar, Sr. Adv.**

**Mr. Binay Kumar Das, AOR**

**Ms. Priyanka Das, Adv.**

**Ms. Neha Das, Adv.**

**Mr. Rohit Kumar Singh, AOR**

**Ms. Jahanvi Worah, Adv.**

**Ms. Shweta Priyadarshini, Adv.**

**Ms. Chandani Arora, Adv.**

**Mr. Shubham V. Gawande, Adv.**

**Ms. Rakhi Ray, AOR**

**Mr. Sureshan P., AOR**

**Mr. Shivam Yadav, Adv.**

**Mr. Rajesh Singh, AOR**

**Mr. Syed Jafar Alam, AOR**

**Mr. Abhinav Mukerji, AOR**

**Mrs. Bihu Sharma, Adv.**

**Ms. Pratishtha Vij, Adv.**

**Mr. Mohit Prasad, Adv.**



Mrs. B. Sunita Rao, AOR  
Mr. Gunmaya S Mann, Adv.

Mr. Sumit Kumar, AOR

Mr. B Ragunath, Adv.  
Mr. Sriram P., AOR

Mr. Saurabh Upadhyay, Adv.  
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Ms. Tavishi Jain, Adv.  
Ms. Sanya Narula, Adv.  
Mr. Sanjay Kumar Tyagi, AOR

Mr. Rajesh Kumar Chaurasia, AOR

Ms. Jasmine Damkewala, AOR  
Mr. Sidhartha Barua, Adv.  
Ms. Vaishali Sharma, Adv.

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

Mr. Romy Chacko, AOR

Mr. Sushil Kumar Singh, AOR

Ms. Mithu Jain, AOR

Mr. Raj Kishor Choudhary, AOR

Mr. S. Rajappa, AOR

Mr. Roopansh Purohit, AOR

Mr. T. Mahipal, AOR

Mr. Somanatha Padhan, AOR

Mr. Tarun Gupta, AOR

Mr. K.B. Upadhyay, Adv.

Mr. S.N. Tripathi, Adv.

Mr. Shailesh Tiwari, Adv.

Ms. Pinki Tiwari, Adv.

Mr. S.R. Setia, AOR

Mr. Vikram Singh, AOR

Mr. Vivek Singh, AOR

Mr. Sumit R. Sharma, AOR

Mr. P.V. Yogeswaran, AOR

Mr. Atul Kumar, AOR

Mr. Utkarsh Sharma, AOR

Mr. C.K. Sasi, AOR

Ms. Meena K Poullose, Adv.

Mr. Syed Jafar Alam, AOR

Mr. Akshat Shrivastava, AOR

Ms. Pallavi Langar, AOR

Ms. Malvika Kapila, 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. D.k. Rustagi, Adv.  
Mr. Akshat Kumar, AOR

Mr. Dipesh Sinha , AOR

Mr. Preshit Vilas Surshe, AOR

Mrs. Geetha Kovilan, AOR

Mr. S.V. Raju, ASG  
Mr. Mukesh Kumar Maroria, AOR  
Mr. Vishesh Kalra, Adv.  
Ms. Nidhi Khanna, Adv.  
Ms. Chinmayee Chandra, Adv.  
Ms. Shradha Deshmukh, Adv.  
Mr. Siddhant Kohli, Adv.  
Mr. Zoheb Hussain, Adv.

Mr. D.S. Chauhan, AOR  
Ms. Ruchi Singh, Adv.  
Mr. Shikher Badial, Adv.

Mr. Abhay Anand Jena, AOR  
Mrs. Shraddha Suman Chandel, Adv.

Ms. Riddhi Sancheti, AOR

Mr. Shantwanu Singh, AOR

Mr. Amit Sharma, AOR  
Mr. Dipesh Sinha, Adv.  
Ms. Pallavi Barua, Adv.  
Ms. Aparna Singh, Adv.

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

Ms. Laxmi Kumari, Adv.

Mr. Sharadendu Dwivedi, Adv.

Mrs. Rachna Gupta, AOR

Mr. Anil Kumar Sinha, Adv.

Mr. Abhishek Misra, Adv.

Ms. Deepika Mishra, Adv.

Dr. Sushil Balwada, AOR

Mr. Nandlal Kumar Mishra, Adv.

Mr. Abhishek Yadav, Adv.

Mr. Pramod Kumar, Adv.

Mr. Vivekanand Rana, Adv.

Ms. Akansha Rai, Adv.

Ms. Apeksha Rai, Adv.

Dr. Vinod Kumar Tewari, AOR

Mr. Mohit Paul, AOR

Mr. Ashwani Kumar, AOR

Ms. Eshna Kumar, Adv.

M/s. Udit Kishan & Associates

Mr. Arvind Kumar Tewari, AOR

Mr. Sudhir Mahajan, Adv.

Mr. Pradeep Mahajan, Adv.

Mr. Tushar 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.

Ms. Priya S. Bhalerao, Adv.

Mr. Aman Gupta, AOR

Ms. Shobha Gupta, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Yashwant Singh Yadav, Adv.

Mr. Anubhav, Adv.

Mr. Krunesh Kumar Shukla, Adv.

Mr. Shivkumar Raghunath Golwalkar, Adv.

Mr. Vijay Pal, Adv.

Mr. Arvind, Adv.

Mrs. Preeti Yadav, Adv.

Ms. Priyanka Arora, Adv.

Mr. Ravindra Bana, AOR

Mr. Aakarsh Kamra, AOR

Mr. Siddhartha Jha, AOR

Mr. Somesh Chandra Jha, AOR

Mr. Ashwani Kumar Dubey, AOR

Mr. Chandra Shekhar Mishra, Adv.

Mr. Vaibhav Tiwari, Adv.

Mr. Rishabh Shukla, Adv.

Mr. Arvind Gupta, AOR

Ms. Priyanjali Singh, AOR

Mr. K.M. Natraj, A.S.G.

Mr. Raj Bahadur Yadav, AOR

Mr. Ayush Puri, Adv.

Mrs. Praveena Gautam, Adv.

Mr. Siddhant Kohli, Adv.

Mrs. Nidhi Khanna, Adv.

Mr. Sughosh Subramaniam, Adv.

Mr. Rupesh Kumar, Adv.

Mr. Santosh Kumar, Adv.

Mrs. Alka Agarwal, Adv.

Mrs. Ruchi Kohli, Adv.

**Petitioner-in-person**

**Mr. Amit Shrivastava, AOR**

**Mr. Rohit Amit Sthalekar, AOR**

**Mr. Purnendu Bajpai, Adv.**

**Mr. Shashank Singh, Adv.**

**Mr. Sudhir Kulshreshtha, AOR**

**Mr. Devendra Singh, AOR**

**M/s. Kmnp Law**

**Mr. K.K. Mohan, AOR**

**Mr. Omprakash Ajitsingh Parihar, AOR**

**Mr. Dushyant Tiwari, Adv.**

**Mr. Arbind Kumar, Adv.**

**Mr. Praveen Bhatiya, Adv.**

**Ms. Supriya Pandita, Adv.**

**Mr. Nishit Agrawal, AOR**

**Mr. Rajiv Ranjan Dwivedi, AOR**

**Mrs. Gargi Khanna, AOR**

**Mr. C.K. Sasi, AOR**

**Ms. Meena K Poullose, Adv.**

**Mr. Abhishek Kumar Singh, AOR**

**Mr. Sri Harsha Peechara, Adv.**

**Mr. Duvvuri Subrahmanya Bhanu, Adv.**

**Ms. Kriti Sinha, Adv.**

**Ms. Pallavi, Adv.**

**Mr. Rajiv Kumar Choudhry, AOR**

**Mr. Neeraj Shekhar, AOR**

**Mr. Ashok Mittal, Adv.**

**Mr. Sudhansu Palo, AOR**

Mr. Budhadeva Palo, Adv.  
Mr. Sanjay Kumar Mishra, Adv.  
Mrs. Ipsita Behura, Adv.

Mr. Nikilesh Ramachandran, AOR

Mr. Gaurav Goel, AOR

Mr. Senthil Jagadeesan, AOR

Mr. Atishi Dipankar, AOR

Ms. Amrita Sarkar, AOR  
Mr. Mukul Lather, Adv.

Mr. Jeetender Gupta, AOR

Mr. Yadav Narender Singh, AOR

Ms. Kamakshi S. Mehlwal, AOR  
Mr. Abhik Kumar, Adv.  
Mr. Rinku Mathur, Adv.  
Mr. Lohit Kumar Bimal, Adv.  
Mr. Aadi Nagpal, Adv.

Mr. Vikas Mehta, AOR

Mr. Sanjay Jain, AOR

Mr. Vijay Kumar, AOR

Mr. Udayaditya Banerjee, AOR

Ms. Rashmi Bansal, AOR

Mr. Ilin Saraswat, Adv.  
Mr. Sikander Saiyed, Adv.  
Ms. Ilma Saifi, Adv.  
Ms. Varsha Hotwani, Adv.  
Mr. M.M. Kashyap, AOR

Mr. Kumar Mihir, AOR

Mr. Deepak Nargolkar, Sr. Adv.  
Mr. Karan Thakur, Adv.  
Mr. Anant Kumar Vatsya, Adv.  
Mr. Ashish Sheoran, Adv.  
Mr. Vijay Kumar Singh, Adv.  
Mr. Ajay Nain, Adv.  
Mr. Vivek Mishra, Adv.  
Mr. Prahlad Narayan Singh, Adv.  
Mr. Devendra Singh, AOR

Mr. Vipin Kumar Jai, AOR

Mr. V. K. Monga, AOR

Mr. Dhruv Tamta, AOR  
Mr. Shalinder Bhatnagar, Adv.

Mrs. Pragya Baghel, AOR

Mr. Bharat Bhushan, AOR

Mr. Tapesk Kumar Singh, AOR  
Mr. Aditya Pratap Singh, Adv.  
Mr. Priyanshu Malik, Adv.

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

Mr. Utsav Trivedi, Adv.  
Ms. Shivani Bhushan, Adv.  
Ms. Manini Roy, Adv.  
Mr. Himanshu Sachdeva, Adv.  
Ms. Diksha Tyagi, Adv.  
Ms. Nandini Acharya, Adv.  
Mr. Piyush Tiwari, Adv.  
Mr. Ashish Yadav, Adv.  
Mr. Soumya Dutta, Adv.  
M/s. TAS Law

Ms. Liz Mathew, AOR  
Ms. Mallika Agarwal, Adv.  
Mr. Nisarg Bhardwaj, Adv.



Mr. Shantanu Sagar, AOR  
Mr. Prabhat Ranjan Raj, Adv.  
Mr. Sidharth Sarthi, Adv.  
Ms. Divya Mishra, Adv.  
Mr. Anil Kumar, Adv.  
Mr. Gunjesh Ranjan, Adv.

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. Manish Tiwari, Adv.  
M/s. Devasa & Co.

Mr. Rabin Majumder, AOR

Mr. Ashish Virmani, AOR

Mr. Milind Kumar, AOR

Mr. Abhinay, AOR

M/s. K.J. John & Co.

Mr. Kumar Anurag Singh, Adv.  
Ms. Tulika Mukherjee, AOR  
Mr. Zain A. Khan, Adv.

Mr. Siddhartha Sinha, AOR

Mr. Pardeep Gupta, Adv.  
Mr. Parinav Gupta, Adv.  
Mrs. Mansi Gupta, Adv.  
Dr. (Mrs. ) Vipin Gupta, AOR  
Mr. Naresh Kumar Sharma, Adv.

Mr. Umang Shankar, AOR

Mr. Abhinav Shrivastava, AOR

Mr. Vineet Bhagat, AOR

Ms. Manju Bhagat, Adv.

Ms. Archana Midha, Adv.

Mr. Aksveer Singh Saggu, Adv.

Ms. Jaikriti S. Jadeja, AOR

Mr. Jatin Zaveri, AOR

Ms. Rashi Bansal, AOR

Mr. Ajay Kohli, Adv.

Mr. Mohit D. Ram, AOR

Ms. Monisha Handa, Adv.

Mr. Rajul Shrivastav, Adv.

Mr. Anubhav Sharma, Adv.

Mr. Bhagirath N.patel, Adv.

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. Aditya Krishna, Adv.

Mr. Shashank Manish, AOR

Ms. Nidhi Sahay, Adv.

Ms. Manju Jetley, AOR

Mr. B. Krishna Prasad, AOR

Mr. Kaustubh Shukla, AOR

Mr. Ujjal Banerjee, AOR

Ms. Mrinal Gopal Elker, AOR

Ms. Awantika Manohar, AOR

Mr. Basava Prabhu S. Patil, Sr. Adv.

Mr. Samir Malik, Adv.

Ms. Nikita Choukse, Adv.

Mr. Akash Lamba, Adv.

Mr. Samir Malik, AOR

Mr. Jinendra Jain, AOR

Mr. Gyan Prakash Srivastava, AOR

Mr. Divyesh Pratap Singh, AOR

Mr. M. Yogesh Kanna, AOR

Ms. Bharti Tyagi, AOR

Mr. Rajat Sehgal, AOR

Mr. Karan Bharihoke, AOR

Mr. Arjun Singh Bhati, AOR

Mr. Karan Dev Chopra, Adv.

Ms. Naveli Reshamwalla, Adv.

Mr. Anush Joshi, Adv.

Ms. Mumtaz Bhalla, AOR

Mr. Divyesh Pratap Singh, AOR

Mr. E.C. Agrawala, AOR

Mr. Tushar Singh, AOR

Mr. Sajan Poovayya, Sr. Adv.

Mr. Vikram Hegde, Adv.

Ms. Hima Lawrence, AOR

Mr. Abhinav Hansaraman, Adv.

Mr. Abhishek Kakkar, Adv.

Ms. Astha Tyagi, AOR

Mr. Arup Banerjee, AOR

Mr. Vishal Arun, AOR

Mr. P.R. Rajhans, Adv.

Mr. Jyoti Kumar Singh, Adv.

Mr. Janmejay Verma, Adv.

Mr. Navin Kumar Singh, Adv.

Mrs. Sampa Sengupta Ray, Adv.

Ms. Hardikaa, Adv.

Mr. Jayant Kumar, Adv.

Mr. Dileep Kumar Dubey, Adv.

Mrs. Meenal Sinha, Adv.

Dr. Surender Singh Hooda, AOR

Mr. Rahul Kaushik, AOR

Ms. Divya Swami, Adv.

Mr. Nikhil Swami, AOR

Mr. Avinash Sharma, AOR

Mrs. Anil Katiyar, AOR

Mr. Sajan Poovayya, Sr. Adv.

Mr. Vikram Hegde, Adv.

Ms. Hima Lawrence, AOR

Mr. Abhinav Hansaraman, Adv.

Mr. Abhishek Kakkar, 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. Abhishth Kumar, AOR

Mr. Kartik Yadav, Adv.  
Mr. Parinay Vasanani, Adv.  
Mr. Manhar Singh Saini, Adv.  
M/s. D.S.K. Legal

Ms. Anshula Vijay Kumar Grover, AOR

Mr. Ravi Panwar, AOR

Mr. Amit Agrawal, AOR

Ms. Neha Sharma, AOR

Mr. Yashraj Singh Bundela, AOR  
Mr. Shashwat Parihar, Adv.  
Mr. Surjeet Singh, Adv.  
Mr. Pawan, Adv.  
Ms. Jyoti Verma, Adv.

Ms. Anushri Singh, Adv.  
Ms. Rashmi Singh, AOR

Mr. Rajesh Kumar, AOR  
Mr. Abhay Kumar, AOR

Applicant-in-person

Mr. M.P. Devanath, AOR

Mr. S.K. Verma, AOR

Ms. Madhurima Tatia, AOR

Mr. Siddharth Batra, AOR

Mr. Balaji Srinivasan, AOR

Mr. Sushil Kumar Sharma, Adv.  
Mr. Pahlad Singh Sharma, AOR  
Mr. Virendra Kumar, Adv.  
Mr. Manish Kumar Mishra, Adv.  
Mr. Kshitij Vedwal, Adv.

Mr. M.L. Lahoty, Adv.  
Mr. Himanshu Shekhar, AOR  
Mr. Paban Kumar Sharma, Adv.  
Mr. Nalin Kohli, Adv.  
Mr. Anchit Sripat, Adv.  
Mr. Mayank Grover, Adv.  
Mr. Pranab Kumar Nayak, Adv.  
Mr. Parth Shekhar, Adv.  
Mr. Arvind Kumar, Adv.  
Ms. Pratibha Vyas, Adv.  
Mr. Shubham Singh, Adv.  
Mr. Vijay Singh, Adv.  
Mr. Darshan Chandrakant Siddarkar, Adv.  
Mr. Dr. Mahesh Y.reddy, Adv.  
Mr. Baiju Varkey Varughese, Adv.  
Mr. Mayur Raj, Adv.  
Mr. Mata Prasad Pathak, Adv.  
Mr. Binod Kumar Singh, Adv.  
Mr. Mukesh Kumar Verma, Adv.

Ms. Mridula Ray Bharadwaj, AOR  
Mr. Tanay Hari Har Lal  
Mr. Vedant Bharadwaj, Adv.

Mr. Awanish Kumar, AOR

Mr. Aldanish Rein, AOR

Mr. Kaustubh Anshuraj, AOR

Mr. Krishna Kumar Singh, AOR

Mr. Ashwarya Sinha, AOR  
Ms. Priyankasinha, Adv.

Mr. Dharmendra Kumar Sinha, AOR

Mr. Partha Sil, AOR

Ms. Upasana Nath, AOR

Ms. Rashmi Nandakumar, AOR

Mr. Shantanu Krishna, AOR  
Ms. Jyoti Mendiratta, AOR  
Mr. Kaushik Choudhury, AOR  
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

**SLP (C) No 9572 of 2007**

- 1 We do not find any merit in the Special Leave Petition bearing in mind the finding which has been recorded by the High Court that the petitioner was not eligible to bid in terms of the tender conditions.
- 2 The Special Leave Petition is accordingly dismissed.
- 3 The closure of the Special Leave Petition which pertains to the grievance of the petitioner shall however not preclude NOIDA from pursuing any other application which it has filed in the pending proceedings before this Court.
- 4 Pending applications, if any, stand disposed of.

**Note dated 30 October 2023**

- 1 Mr N Venkataraman, Additional Solicitor General has placed on the record a note for the hearing at the behest of the Government appointed Board of Directors of Unitech Limited.

2 The first prayer in paragraph 5(A) is in the following terms:

“(A) Permit the management to award contracts in respect of 15 tenders of Lot-1 and 34 tenders of Lot-2 to the successful bidders, as per recommendations of Hon’ble Mr. Justice A.M. Sapre (Retd.) and permit award of further contracts on an on-going basis with the approval of Hon’ble Mr. Justice A.M. Sapre (Retd.) and start the construction works;

3 The new management seeks permission to award contracts in terms of the recommendations made by Justice A M Sapre in respect of fifteen tenders of Lot I and thirty-four tenders of Lot II so that construction may commence.

4 Prayers (D), (E) and (F) are in the following terms:

“(D) Direct the home buyers to make payment of their balance dues in accordance with the Revised Payment Plan uploaded on the website of Unitech Ltd so as to facilitate the availability of required cash-flows for uninterrupted construction. In case of non-adherence to the said timelines, the Hon’ble Court may kindly consider directing payment of interest @ 12% for delay in payment and cancellation of allotment in case of default of two successive quarterly payments;

(E) Direct that those home buyers, who had earlier opted for refunds, but are now desirous to change their options to possession, may do so, as a one-time last measure, by sending their details to the designated email of the company within a period of 8 weeks;

(F) Direct that those home buyers who wish to change their options from refund to possession, and had received partial refunds earlier, be allowed, as a final opportunity, to change their options on upfront payment of refunded amount within a period of 4 weeks to the designated notified account of the company. This Hon’ble Court vide Order dated 20.01.2020 in case of Vistas project, had allowed similar deposit back of the refunded amount along with interest @ 9% p.a. from the date of refund till the date of deposit;



- 5 Since the tender process and the proposed award of contracts have been vetted by Justice A M Sapre, we permit the Government appointed Board of Directors of Unitech Limited to award the contracts in terms of the recommendations made by Justice A M Sapre.
- 6 As regards payments by the home buyers, we issue the following directions:
  - (i) The home buyers who have opted for possession of constructed units shall make payment of their balance dues in accordance with the revised payment plan which has been uploaded on the website of Unitech Limited, failing which interest shall be payable at the rate of 9% per annum;
  - (ii) Those home buyers who had earlier opted for refund, but are now desirous of changing their options to possession are permitted to do so as a one time measure by sending their details to the designated email account of Unitech Limited by 15 December 2023; and
  - (iii) Those of the home buyers who wish to change their options from refund to possession and who had received partial refunds earlier would have to repay the principal amount which was earlier refunded to them within a period of eight weeks of their opting for possession.
- 7 As regards prayer (B) which relates to the grant of sanctions by NOIDA of the revised plans, it has been agreed that the Additional Solicitor General and Mr Ravindra Kumar, senior counsel appearing on behalf of NOIDA and Greater NOIDA shall sit together so that an agreed formulation can be tendered before this Court for passing an order which would sub-serve the interest of ensuring the commencement of construction while protecting the legitimate concerns of the planning authorities.
- 8 The submissions of NOIDA will be considered on the next date of listing.

- 9 List the following applications on 10 November 2023 at 2 pm:
- (i) IA 205642 of 2023 for awarding of contracts;
  - (ii) IA Nos 210624 and 210625 of 2023 in CA 10856 of 2016; and
  - (v) IA 103160 of 2020 in CA 2496-2497 of 2020.
- 10 List IA Nos 101560, 101561, 101563 and 101566 of 2023 in SLP (Cri) Nos 5978-5979 of 2017 on 6 November 2023.

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

**(SAROJ KUMARI GAUR)**  
**Assistant Registrar**