

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
RECORD OF PROCEEDINGS

Civil Appeal No(s).10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(IA NOS. 57580/2021, 57581/2021-APPLICATIONS FOR DIRECTION AND IMPLEADMENT I.A NOS. 96264, 100079, 152952 AND 96157, 100070, 153005 OF 2021-APPLICATIONS FOR DIRECTION AND IMPLEADMENT FILED ON BEHALF OF THE APPLICANTS ONLY THESE IA'S ARE TO BE LISTED).

(IA No. 57580/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 152952/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 100079/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 96264/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 57581/2021 - INTERVENTION/IMPLEADMENT
IA No. 153005/2021 - INTERVENTION/IMPLEADMENT
IA No. 100070/2021 - INTERVENTION/IMPLEADMENT
IA No. 96157/2021 - INTERVENTION/IMPLEADMENT)

WITH

SLP(Cr1) No. 5978-5979/2017 (II-C)

(WITH IA No. 5432/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 135050/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 83599/2020 - CLARIFICATION/DIRECTION, IA No. 72200/2018 - CLARIFICATION/DIRECTION, IA No. 72138/2018 - INTERVENTION APPLICATION, IA No. 72189/2018 - INTERVENTION/IMPLEADMENT, IA No. 5431/2022 - INTERVENTION/IMPLEADMENT)

Date : 10-02-2022 These applications were called on for hearing today.

CORAM :

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

Mr. Pawanshree Agrawal, Adv. (A.C.)
Mr. Varun K. Chopra, Adv.

For Appellant(s)

IA 135050/21
IA 5431-32/22

Mr. Siddhartha Dave, Sr. Adv.
Mr. Haresh Jagtiani, Sr. Adv.
Mr. Vishal Gosain, Adv.
Mr. Anuroop Chakravarti, Adv.
Ms. Ranjeeta Rohatgi, AOR
Ms. Neeha Nagpal, Adv.
Mr. Samten Doma, Adv.

Ms. Aarushi Singh, Adv.

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

Mr. Ritesh Kahra, Adv.
Mr. Akhlesh, Adv.
Mr. Deepak Goel, AOR
Mr. Vipin Kumar, Adv.
Mr. Kamal Kumar Pandey, Adv.
Ms. Urvashi Sharma, Adv.
Ms. Samta Pushkarna Mishra, Adv.

For Respondent(s)

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

Ms. Madhavi Divan, ASG
Ms. Suhashini Sen, Adv.
Ms. Shraddha Deshmukh, Adv.
Mr. M.K. Maroria, AOR
Ms. Chinmayee Chandra, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Rajan Kr Chourasia, Adv.
Mr. Prashant Singh B, Adv.
Mr. Amrish Kumar, AOR
Mr. Ayush Puri, Adv.
Ms. Ruchi Kohli, Adv.
Ms. Nidhi Khanna, Adv.
Ms. Praveena Gautam, Adv.
Mr. Shekhar Vyas, Adv.
Mr. Santosh Kumar, Adv.
Mr. Sughosh Subramanyam, Adv.
Mr. Ankur Talwar, Adv.
Ms. Vaishali Verma, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Arvind Kumar Sharma, AOR
Mr. T.A. Khan, Adv.
Mr. Anish Kr. Gupta, Adv.
Mr. Adit Khorana, Adv.
Mr. Digvijay Dam, Adv.
Mr. G.S. Makkar, AOR

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

Mr. Anil Grover, Sr. AAG
Mr. Ajay Bansal, AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Sanjay Kumar Visen, AOR
Mr. Bhanwar Jadon, Adv.

Mr. Sanjeev Prakash Upadhaya, Adv.
Mr. Satish Kumar, Adv.
Ms. Babita Mishra, Adv.
Ms. Adira A Nair, Adv.
Mr. Amit Gupta, Adv.
Mr. Gaurav Yadava, Adv.
Ms. Veena Bansal, Adv.

Ms. Jaikriti S. Jadeja, AOR

Ms. Malvika Kapila, Adv.
Ms. Swarupama Chaturvedi, AOR

Mr. S. Chakraborty, Sr. Adv.
Mr. Arup Banerjee, AOR

Ms. Ankita Agarwal, Adv.
Mr. Kaustubh Shukla, AOR

Mr. Brijesh Kumar Tamber, AOR
Mr. Sahas Bhasin, Adv.

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

IA No 16838 of 2022 (Application for direction by the Enforcement Directorate)

- 1 The IA has been moved by the Enforcement Directorate¹.
- 2 The ED has stated that it would be filing a supplementary prosecution complaint before the Special Court under the Prevention of Money Laundering Act 2002² against the accused persons and for that purpose, it intends to annex the report of the Forensic Auditors - M/s Grant Thornton to the prosecution complaint.
- 3 By an order of this Court dated 6 October 2021, the request of the accused for a copy of the report was not acceded to, at that stage, since the report of the Forensic Auditors was the subject matter of the investigation which was being conducted by the ED.

1 "ED"

2 "PMLA"

- 4 Since the ED has stated that it is filing a prosecution complaint under PMLA, it is clarified that the order of this Court dated 6 October 2021 shall not preclude the ED from annexing the report to the prosecution complaint and to rely upon the document.
- 5 With the above clarification, permission is granted to the ED to file the report of the Forensic Auditors - M/s Grant Thornton, with the prosecution complaint, which is to be filed before the Special Court for offences punishable under the PMLA.
- 6 IA is accordingly disposed of.

IA Nos 5431 and 5432 of 2022 (Applications for impleadment and directions on behalf of the applicant - Ramesh Chandra)

- 1 We have heard Mr Siddhartha Dave, senior counsel, in support of the applications. Ms Sushasini Sen, counsel, appears on behalf of the Delhi Police.
- 2 The applications pertain to ECIR/04/DLZO-II/2018, which is registered by the ED, *inter alia*, against the applicant. The applicant seeks a clarification permitting the applicant to approach the Sessions Court, Patiala Courts, New Delhi (PMLA Court) to seek bail in accordance with law.
- 3 The applicant is permitted to pursue his remedies, as prayed in the applications, by moving the competent court under PMLA for seeking bail. We clarify that this Court has not expressed any opinion on the merits of the applications.
- 4 The applications are accordingly disposed of.

IA No 135050 of 2021 (application for directions on behalf of the first and second petitioners)

- 1 The applicants who are confined to jail have sought permission to have meetings on the video conferencing mode with their lawyers on a weekly basis. Directions have also been sought for meeting the members of the family on the video conferencing mode.
- 2 The applicants are permitted to have one video conferencing meeting every fortnight with their lawyers for a duration of one hour. As regards video conferencing meeting with family members, the jail authorities shall abide by the Jail Manual.
- 3 The petitioners shall furnish to the Superintendent of the jail, in advance, the identity of the advocate or advocates, with whom every meeting will be held, together with proof of Bar Council enrolment.
- 4 The IA is accordingly disposed of.

IA Nos 57580/2021 & 57581/2021 (applications for direction and impleadment of Andhra Pradesh Industrial Infrastructure Corporation (APIIC))

- 1 Though notice was issued in the month of August, 2021, no counter affidavit has been filed.
- 2 Mr S Chakraborty, senior counsel appearing on behalf of APIIC, with Mr Arup Banerjee, states that a delay has occurred due to unavoidable circumstances and a short adjournment may be granted.
- 3 Counter affidavit, if any, be filed within a period of two weeks. An advance copy of the counter affidavit shall be served on the briefing advocate of the Additional Solicitor General.

4 List the applications on 24 March 2022 at 3 pm.

IA Nos 96264 & 96157 of 2021, 100079 & 100070 of 2021 and 152952 & 153005 of 2021 (IAs by contractors)

- 1 The IAs have been instituted by the contractors/agencies who were engaged by the erstwhile management of Unitech Limited.
- 2 In paragraph 8 of the reply which has been filed by the new management of Unitech Limited, it has been specifically stated that the machinery and assets which, upon verification and proof, are found at project sites to belong to the applicants, shall be released by the new management, upon complete reconciliation, confirmation and recommendation by the Project Management Consultants³.
- 3 In order to facilitate a reconciliation of the claims which have been made in the IAs, the following directions are issued:
 - (i) The applicants shall cooperate with the PMCs to complete the process of handing over/taking over of the project sites;
 - (ii) The applicants shall hand over all relevant documents, together with their claims, to the PMCs in order to facilitate verification and finalization of the claims; and
 - (iii) The claims, together with the relevant documents, shall be submitted by the applicants to the PMCs within a period of three weeks. The PMCs shall carry out the process of verification and submit their reports to the new management of Unitech Limited within a period of six weeks thereafter.
- 4 List the applications after ten weeks.

3 “PMCs”

IA Nos 83599/2020, 72200/2018, 72138/2018 & 72189/2018 (applications by Wisdom World Developers)

1 On 16 July 2018, the following order was passed by this Court:

“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.”

2 The applicant, Wisdom World Developers Pvt Ltd, who had deposited the amount in the Registry of this Court in pursuance of the above order, has sought permission to withdraw the amount deposited since the applicant does not propose to go ahead with the project.

3 Ms Malvika Kapila, counsel, has appeared in support of the application for withdrawal. Mr N Venkataraman, Additional Solicitor General, states that there is no objection to the amount being withdrawn since the amount in question forms a part of the resolution plan which is proposed by the new board of management of Unitech Limited.

4 Accordingly and in view of the above position, the application for withdrawal of the amount is allowed by permitting the applicant to withdraw the amount of Rs 15 crores, which was deposited in the Registry of this Court, together with the accrued interest.

5 The applications are accordingly disposed of.

Office Report dated 8 February 2022 in SLP(Crl) Nos 5978-5979 of 2017

1 The office report indicates that FDRs, bearing A/c No 1303-Y, 1303-H and 1303-X, are maturing on 14 March 2022, 9 March 2022 and 2 March 2022, respectively. The FDRs be renewed for a further period of 91 days with auto renewal from time to time.

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List the following applications on 17 February 2022 at 2 pm:

- (i) Priadarshini - IA No. 15360 of 2022 filed by Priadarshini Foundations Pvt. Ltd;
- (ii) Carnoustie - IA Nos. 50704 of 2021, 50706 of 2021 filed by Unitech and IA Nos. 79304 of 2020, 5463 of 2021 filed by Carnoustie;
- (iii) 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.

**(SANJAY KUMAR-I)
AR-CUM-PS**

**(SAROJ KUMARI GAUR)
COURT MASTER**