

ITEM NO.22 Court 5 (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.10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(With appln.(s) for for approval of the resolution plan, appropriate orders/directions, clarification/direction, early hearing, exemption from filing affidavit, exemption from filing O.T., exemption from paying court fee, extension of time, intervention, intervention/impleadment, permission to appear and argue in-person, permission to file additional documents/facts/Annexures, permission to place additional facts and grounds, recalling the Court's order and withdrawal of case/application)

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

(With appln.(s) for exemption from filing certified as well as ordinary plain copy of the impugned order, substitution, appropriate orders/directions, clarification/direction, early hearing, exemption from filing affidavit, interim bail, intervention, intervention/impleadment, modification, modification of Court order, permission to appear and argue in-person, permission to file additional documents/facts/Annexures, direction, to file SLP without certified/plain copy of impugned order, permission to palce on record subsequent facts, recalling the Court's order, seeking custody certificate and withdrawal of case/application)

Date : 25-03-2021 These matters were called on for hearing today.

CORAM :

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

Mr. Pawanshree Agrawal, AOR (A.C.)
Ms. Abhipsa Anamika, Adv.

For Appellant(s) Mr. N. Venkataraman, ASG
Ms. Anubha Agrawal, AOR

Mr. Ritesh Khara Adv
Mr. Akhilesh, Adv.
Mr. Deepak Goel, AOR

Mr. Vipin Kumar, Adv
 Mr. Kamal Kumar Pandey, Adv
 Ms. Madhuri Gupta, Adv
 Ms. Nandita Sharma, Adv.

Ms. Ranjeeta Rohatgi, AOR
 Ms. Neeha Nagpal, Adv.
 Mr. Anuroop Chakravarti, Adv.
 Ms. Samtem Doma, Adv.

Mr. Mahesh Agarwal, Adv.
 Mr. Ankur Sehgal, Adv.
 Mr. Anuroop Chakravarti, Adv.
 Ms. Neeha Nagpal, Adv.
 Mr. Anshuman Srivastava, Adv.
 Mr. E. C. Agrawala, AOR

Mr. Gp. Capt. Karan Singh Bhati, AOR
 Mr. Pushpraj Singh, Adv.
 Mr. Jaideep Singh, Adv.

For Respondent(s)

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

Ms. Madhavi Divan, ASG
 Ms. Aishwarya Bhati, ASG
 Mr. K.M. Nataraj, ASG
 Ms. Shraddha Deshmukh, Adv.
 Mr. Chinmayee Chandra, Adv.
 Mr. M.K. Maroria, Adv.
 Mr. B.V. Balramdas AOR
 Mr. A. K. Sharma AOR
 Mr. Shekhar Vyas, Adv.
 Ms. Praveena Gautam, Adv.
 Mrs. Anil Katiyar, AOR
 Ms. Suhashini Sen, Adv.
 Mr. T.A. Khan, Adv.
 Mr. Anish Kumar Gupta, Adv.
 Mr. B. Krishna Prasad, AOR
 Mr. Raj Bahadur Yadav, Adv.
 Mr. Ayush Puri, Adv.
 Mr. Prashant Singh B, Adv.

IA 179388/19 &
 IA 75594/20

Mr. C.S. Vaidyanathan, Sr. Adv.
 Mr. P.R. Kovilan Poongkuntran, Adv.
 Mrs. Geetha Kovilan, AOR

Mr. Vinay Navare, Sr. Adv..

Mr S.C. Dharmadhikari, Sr. Adv.
 Mr Aniruddha Joshi, Adv.
 Ms Jasmine Damkewala, AOR

Ms Vaishali Sharma, Adv.
Mr. Dinesh Chander Trehan, Adv.

Ms Maninder Acharya, Sr Adv.
Mr Siddhartha Barua, Adv.
Ms Aditi Gupta, Adv.
Ms Jasmine Damkewala, AOR
Ms Vaishali Sharma, Adv.
Mr. Dinesh Chander Trehan, Adv.

Mr. Parag Tripathi, Sr. Adv.
Mr. Kartik Yadav, Adv.
Mr. Parinay Vasandani, Adv.
Mr. Manhar Singh Saini, Adv.
Ms. Mishika Bajpai, Adv.
Mr. Chandra Prakash, Adv.
M/s DSK Legal

Mr. Sanpreet Singh Ajmani, Adv.
Mr. Varun Mishra, Adv.
Ms. Tanvi Dubey, Adv.
Ms. Manju Jetley, AOR

Mr. Anil Grover, Sr AAG
Mr. Satish Kumar, Adv.
Mr. Sanjeev Prakash Upadhyaya, Adv.
Mr. Amit Gupta, Adv.
Mr. Sanjay Kumar Visen, AOR

Ms. V. Mohana, Sr. Adv.
Mr. B. Raghunath, Adv.
Ms. N.C. Kavitha, Adv.
Mr. Sriram Parakkat, Adv.

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

Mr. Brijesh Kumar Tamber, AOR

Ms. Sujata Kurdukar, AOR

Mr. Ranjit Kumar Sharma, AOR

Mr. Chandan Kumar, AOR

Mr. Ajay Jain, Adv.
Mr. Jinendra Jain, AOR
Ms. Mitika Choudhary, Adv.
Ms. Tannu, Adv.
Ms. Cherry Aggarwal, Adv.

Mr. Maitreyee Jagat Joshi, Adv.
Mr. Divyesh Pratap Singh, AOR
Ms. Shivangi Singh, Adv.
Mr. Vikram Pratap Singh, Adv.
Ms. Shailja Yadav, Adv.

Ms. Bharti Tyagi, AOR

Mr. Gp. Capt. Karan Singh Bhati, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Aakarsh Kamra, AOR

Mrs. Gargi Khanna, AOR

Mr. Abhishek Kumar Singh, AOR

Mrs. Kirti Renu Mishra, AOR
Ms. Apurva Upmanyu, Adv.

Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Ms. Pratishtha Vij, Adv.

Mr. Sumit Kumar, AOR
Mr. Rajesh Pathak, Adv.
Ms. Kumari Supriya, Adv.
Mr. Hemant Kumar, Adv.
Ms. Harshita Sinha, Adv.
Mr. Sunil Kumar, Adv.

Mr. Rahul Kaushik, AOR

Mr. Avinash Sharma, AOR

Mr. Sajan Poovayya, Sr. Adv.
Mr. Vikram Hegde, Adv.
Mr. Shantanu Lakhotia, Adv.
Ms. Hima Lawrence, AOR
Mr. Pratibhanu Kharolla, Adv.

Mr. Siddharth Batra, AOR
Mr. Ravinder Kumar, Adv.

Mr. K. K. Mohan, AOR

Mr. Dhruv Agrawal, Sr. Adv.
Mr. Nishit Agrawal, AOR
Mr. Harsh Mishra, Adv.

Mr. Udayaditya Banerjee, AOR

Mr. M. M. Kashyap, AOR

Ms. Rakhi Ray, AOR

Ms. Shilpa Chohan, Adv.
Mr. Rajesh Singh, AOR

Mr. Tarun Gupta, AOR

Mr. Vikram Singh, AOR

Mr. Rajesh Kumar, AOR

Mr. S. K. Verma, AOR

Mr. Aditya Singh, AOR

Ms. Kamakshi S. Mehlwal, AOR

Mr. Sanjay Jain, AOR

Mr. Chandra Bhushan Prasad, AOR

M/S. Devasa & Co., AOR

Mr. S. Rajappa, AOR

Mr. T. Mahipal, AOR

Mr. M. R. Shamshad, AOR

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

Mr. Saurabh Jain, Adv.
Mr. P.K. Jain, AOR
Mr. P.K. Goswami, Adv.
Mr. S.P. Singh Rathore, Adv.

Mr. Kaushik Poddar, AOR

Ms. Divya Roy, AOR

Mr. Siddharth, AOR

Mr. Shantanu Sagar, AOR
Mr. Ashutosh Thakur, Adv.
Ms. Divya Mishra, Adv.
Mr. Anil Kumar, Adv.

Ms. Filza Moonis, AOR

Ms. Rashi Bansal, AOR

Mr. Pawan Narang, Adv.
Mr. Lokesh Bholā, Adv.
Mr. Archit Upadhayay, AOR
Ms. Aparna Gupta, Adv.
Ms. Ankita Kedia, Adv.

Mr. Varun Chopra, Adv.
Mr. Gurtejpal Singh, Adv.
Ms. Aswathi M.K., AOR

Mr. Jay Kishor Singh, AOR

Mr. Mayank Goel, AOR

Ms. Harsh Lata, AOR

Mr. D. Abhinav Rao, AOR

Mr. Pukhrambam Ramesh Kumar, AOR

Ms. Charu Mathur, AOR

Mr. Abhinav Shrivastava, AOR

Ms. Jaikriti S. Jadeja, AOR

Mr. Rajat Sehgal, AOR
Ms. Mandavya Kapoor, Adv.

Mr. Arjun Singh Bhati, AOR

Mr. Amit Sharma, AOR

Mr. U.A. Rana, Advocate
Mr. Himanshu Mehta, Advocate
M/S. Gagrat and Co, AOR

Mr. Ravindra Kumar, AOR

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Sanjay Bhatt, Adv.
Mr. Joydeep Mukherjee, Adv.
Ms. Akansha Srivastava, Adv.
Mr. Rabin Majumder, AoR.

Mr. Rajeev Singh, AOR

Mr. Akshat Shrivastava, AOR

Mr. Shashibhushan P. Adgaonkar, AOR

Ms. Soumya Dutta, AOR
Mr. Gyan Prakash Srivastava, AOR
Mr. M. Yogesh Kanna, AOR
Mr. Vivek Gupta, AOR
Ms. Shagun Matta, AOR
Mr. Deepak Bashta, Adv.
Ms. Shobha Gupta, AOR
Ms. Medha Garg, Adv.
Mr. Ravindra Bana, AOR
Mr. Siddhartha Jha, AOR
Mr. Ashwani Kumar Dubey, AOR
Mr. Ashwini Kumar Upadhyay, Adv.
Mr. Chandra Shekhar Mishra, Adv.
Mr. Manish Kumar, Adv.
Mr. Sandeep Mishra, Adv.
Mr. Prashant Kumar Umrao, Adv.
Mr. Gopal Jha, AOR
M/S. Cyril Amarchand Mangaldas
Mr. Gagan Gupta, AOR
Mrs. B. Sunita Rao, AOR
Mr. Nikhil Swami, AOR
Ms. Divya Swami, Adv.
Ms. Madhurima Tatia, AOR
Ms. Rohini Prasad, AOR
M/S. Kmnp Law
Mr. Omprakash Ajitsingh Parihar, AOR
Mr. Sachin Jain, Adv.
Ms. Isha Agarwal, Adv.
Mr. Rajiv Ranjan Dwivedi, AOR
Mr. C. K. Sasi, AOR
Ms. Garima Prashad, AOR
Mr. Sureshan P., AOR

Mr. Syed Jafar Alam, AOR
Mr. Himanshu S Sinha, Adv.
Mr. Bhuwan Dhoopar, Adv.

Mr. S. R. Setia, AOR

Mr. Abhay Kumar, AOR

Mr. M. P. Devanath, AOR

M/S. AV Global Chambers

Ms Swarupama Chaturvedi, AOR
Mr Ashutosh Mohan, Adv
Ms Neha Rai, Adv

Mr. Yadav Narendra Singh, AOR

Dr. Harish Uppal, Adv.
Mr. Tishwar Prasad, Adv.
Mr. Naresh Aditya Madhav, Adv.
Mr Vikas Mehta AOR
Mr. Kushal Sarkar, Adv.

Mr. Vijay Kumar, AOR
Mr. Ashwani Garg, Adv.

Mr. Atul Sharma, Adv.
Ms. Arveena Sharma, Adv.
Mr. Abhishek Agarwal, AOR

Mr. Roopansh Purohit, AOR

Mr. Somanatha Padhan, AOR

Mr. Anirudh Sharma, AOR

Mr. T. N. Singh, AOR
Mr. Vikas Singh, Adv.

Ms. Manjula Gupta, AOR

Ms. Charu Ambwani, AOR

Mr. Saurabh Ajay Gupta, AOR

Mr. Sonal Jain, AOR

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

Mr. Mohit D. Ram, AOR

Mr. Gaurav Goel, AOR

Mr. Arjun Harkauli, AOR

Mr. Roshan Santhalia, AOR

Mrs. Rachna Gupta, AOR

Mr. Praveen Agrawal, AOR

Mr. Prithvi Pal, AOR

Ms. Preeti Singh, AOR

Mr. Sunklan Porwal, Adv.

Ms. Manorma Masih, Adv.

Mr. Deepak Verma, Adv.

Mr. R. K. Pandey, Adv.

Mr. Atul Sharma, AOR

Mr. Umang Shankar, AOR

Mr. K.G. Bhagat, Adv.

Ms. Archana Midha, Adv.

Ms. Manju Bhagat, Adv.

Mr. Vineet Bhagat, AOR

Mr. Jatin Zaveri, AOR

Mr. Siddhant Sharma, Adv.

Mr. Karan Bharihoke, AOR

Ms. Neha Sahai Bharihoke, Adv.

Mr. Himanshu Upadhyay, Advocate

Mr. Devesh Partap Singh, Advocate

Ms. Bano Deswal, Advocate

Mr. R. C. Kaushik, AOR

Mr. S.Udaya Kumar Sagar, AOR

Ms. Sweena Nair, Adv.

Mr. Kumar Sudeep, Adv.

Mr. Somesh Chandra Jha, AOR

Mr. Balaji Srinivasan, AOR

Mr. Pahlad Singh Sharma, AOR

Mr. Ajit Sharma, Adv.

Mr. Sushil Kumar Sharma, Adv.

Mr. Pranshu Kaushal, Adv.

Ms. Mridula Ray Bharadwaj, AOR

Mr. M.L. Lahoty, Adv.
Mr. Paban K. Sharma, Adv.
Mr. Anchit Sripat, adv.
Mr. Himanshu Shekhar, AOR

Mr. Awanish Kumar, AOR

Ms. Maheravish Rein, Adv.
Ms. Shamsravish Rein, Adv.
Mr. Aldanish Rein, AOR

Mr. Kaustubh Anshuraj, AOR

Mr. Gautam Singh, Adv.
Mr. Krishna Kumar Singh, AOR

Mr. Ashwarya Sinha, AOR

Mr. Arun Adlakhya, Adv.
Mr. Onkar Prasad, Adv.
Mr. Dharmendra Kumar Sinha, AOR

Mr. Partha Sil, AOR

Ms. Vibha Mahajan, Adv.
Ms. Upasana Nath, AOR

Ms. Rashmi Nandakumar, AOR

Mr. Shantanu Krishna, AOR

Mr. Janak Dwarkadas, Sr. Adv.
Mr. Chitranshul Sinha, Adv.
Mr. Anil Agarwal, Adv.
Ms. Sonali Khanna, Adv.
Mr. Anshuman Chatuvedi, Adv.
Mr. Jaskaran Singh Bhatia, Adv.
M/S. Dua Associates

Mr. Ayush Sharma, AOR

Mr. Vaibhav Kumar, AOR

Mr. Aneesh Mittal, AOR

Ms. Tara V. Ganju, Adv.
Ms. Jyoti Mendiratta, AOR

Dr. Aman Hingorani, Adv.
Mr. Himanshu Yadav, Adv.
Mr. Anirudh Jamwal, Adv.

M/S. Hingorani & Associates

**Ms. V. Mohana, Senior Advocate
Mr. Kaushik Choudhury, AOR**

**Mr. Vatsalya Vigya, Adv.
Mr. Preshit Vilas Surshe, AOR**

Mr. Abhishth Kumar, AOR

**Mr. Vikas Dutta, Adv.
Mr. Shiva Sambyal, Adv.
Mr. O. P. Bhadani, AOR**

Mr. Aniruddha P. Mayee, AOR

Dr. Vinod Kumar Tewari, AOR

Ms. Upasana Nath, AOR

Mr. Atul Kumar, AOR

Mr. Sonal Jain, AOR

Mr. E. C. Agrawala, AOR

**Mr. Arvind Gupta, AOR
Mr. Rabindra Tiwary, Adv.
Mr. Pran Krishna Jana, Adv.
Mr. Vipin Kumar, Adv.
Mr. Vivek Bhojajka, Adv.
Mr. Binod Kumar Singh, Adv.**

**Mr. Ritin Rai, Sr. Adv.
Mr. Rajshekhar Rao, Adv.
Ms. Liz Mathew, AOR
Ms. Zehra Khan, Advocate
Ms. Kritika Bhardwaj, Adv.
Mr. Vinayak Mehrotra, Adv.
Mr. Areeb Amanullah, Adv.
Ms. Sonali Jain, Adv.
Ms. Shreya Choudhary, Adv.**

**Mr. Mohit Paul, AOR
Mr. Mohit Jolly, Adv.
Ms. Chand Chopra, Adv.
Ms. Bhavya Shukla, Adv.
Ms. Sunaina Phul, Adv.**

Mr. Akshat Kumar, AOR

Mr. Neeraj Shekhar, AOR

Mr. Sumit Kumar, Adv.

Mr. Neeraj Kumar, Adv.

Mr. Rajeeve Mehra, Sr. Adv.

Mr. Kunal Tandon, Adv

Mr. Tushar Singh, Adv

Ms. Pankhuri, Adv.

Mr. Parthasarathy Bose, Adv.

Mr. Mohd. Arif, Adv.

Mr. Akhilesh Yadav, Adv.

Ms. Pinky Anand, Sr. Adv.

Ms. Snidha Mehra, Adv.

Ms. Kirti Dua, Adv.

Ms. Priyanjali Singh, AOR

Mr. Rahul Rathore, Adv.

Mr. Rajesh Kumar Chaurasia, AOR

Mr. Sanjeev Kumar Singh, Adv.

Mr. Anurag Jain, Adv.

Mr. Onkar Prasad, Adv.

Mr. Naveen Kumar, Adv.

Ms. Soni, Adv.

Mr. Saurabh Chaudhary, Adv.

Ms. Shruti Agarwal, AOR

Mr. Deepak M Nargolkar, Sr. Adv.

Mr. Anant Kumar Vatsya, Adv.

Mr. Shiv Kumar, Adv.

Mr. Devendra Singh, AOR

Ms. Anshula Vijay Kumar Grover, AOR

Mr. Sudhansu Palo, AOR

Mr. Anand Sukumar, Adv.

Mr. Bhupesh Kumar Pathak, Adv.

Mrs. Meera Mathur, AOR

Mr. Braj Kishore Mishra, AOR

Mr. Vinod Kumar, Advocate

Mr. Abhishek Yadav, Advocate

Mr. K.V. Vishwanathan, Sr. Adv.

Mr. Sharath Sampath, Adv.

Mr. Tarun Mehta, Adv.

Mr. Manikya Khanna, Adv.

Ms. Nidhi Mohan Parashar, AOR

Mr. Pratyaksh Sharma, Adv.

Mr. Sandeep Bajaj, Adv.

Ms. Aakanksha Nehra, Adv.

Mr. Siddhartha Shukla, Adv.

Mr. Sunil Fernandes, AOR

Ms. Rashi Bansal, AOR

Mr. M. P. Vinod, AOR

Mr. A. Henry, Adv.

Mr. Rajiv Mehta, AOR

Mr. Ashwani Kumar, AOR

Ms. Kumud Nijhawan, Adv.

Ms. Sujata Kurdukar, AOR

Mr. Navroj Seervai, Sr. Adv.

Mr. Debmalya Banerjee, Adv.

Mr. Ajay Vazirani, Adv.

Mr. Ameya Deosthale, Adv.

Mr. Kartik Bhatnagar, Adv.

Mr. Ujjwal Singh, Adv.

Mr. Vardaan Wanchoo, Adv.

Ms. Sharanya Mahimtura, Adv.

Ms. Astha Prasad, Adv.

Mr. Ashish Kamat, Adv.

Mr. Ajay Vazirani, Adv.

Mr. Debmalya Banerjee, Adv.

Mr. Ameya Deosthale, Adv.

Mr. Kartik Bhatnagar, Adv.

Mr. Ujjwal Singh, Adv.

Mr. Vardaan Wanchoo, Adv.

Ms. Sharanya Mahimtura, Adv.

Ms. Astha Prasad, Adv.

M/S. Karanjawala & Co.

Ms. Pallavi Tayal, AOR

Mr. Jappanpreet Hora, Adv.

Mr. Prabjot Hora, Adv.

Mr. A. Karthik, AOR

Mr. Raj Kamal, AOR

Mr. Nitin Saluja, AOR

Mr. Mudit Gupta, Adv.

Mr. P. K. Jain, AOR

Mr. Rohit Sharma, Adv.

Mr. Rounak Nayak, Adv.

Ms. Arju Chaudhary, Adv.

Mr. Kumar Dushyant Singh, AOR

Mr. Nikilesh Ramachandran, AOR

Mr. Shashank Manish, AOR

Ms. Nidhi Sahay, Adv.

Mr. Yash Kumar, Adv.

Mr. Nakul Mohta, Adv.

Ms. Misha Rohatgi, AOR

Mr. Devansh Srivastava, Adv.

Mr. Karan Valecha, Adv.

Mr. Shashi Bhushan P Adganokar, AOR

Mr. Sanjeev Sen, Sr. Adv.

Mr. Vipin Kumar Jai, AOR

Mr. Sanjay Kumar Tyagi, AOR

Mr. Manish Shankar Srivastava, Adv

Mr. Vivek Srivastava, Adv.

Mr. Abhishek Kumar Singh, AOR

Mr. V. K. Monga, AOR

Mr. Dileep Poolakkot, Adv.

Mr. Harshad V. Hameed, AOR

Mrs. Ashly Harshad, Adv.

Ms. Vibha Datta Makhija, Sr. Adv.

Mr. Shariq Ahmed, Adv.

Mr. Tariq Ahmed, Adv.

Mr. Praveen Gaurav, Adv.

Mr. Karan Mangain, Adv.

Mr. Saju Jakob, Adv.

Mr. Sunil Kumar Verma, AOR

Mr. Ashish Virmani, AOR

Mr. Sumit R. Sharma, AOR

Dr. Lalit Bhasin, Adv.

Ms. Nina Gupta, Adv.

Mr. P. V. Yogeswaran, AOR

Mr. Milind Kumar, AOR

Mr. Gopal Sankaranarayanan, Sr. Adv.

Mr. Awanish Kumar, Adv.

Mr. Shiv Pandey, Adv.

Mr. Chandrashekhar Chakalabbi, Adv.

Mr. Anshul Rai, Adv.

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Mayank Grover, Adv.
Ms. Gurleen Kaur, Adv.
Mr. Jamnesh Kumar, Adv.
Mr. Himanshu Shekhar, AOR

Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Rajesh D.M., Advocate
Mr. Aman Gandhi, Adv.
Mr. Rohan Sharma, Adv.
Mr. Abhishek Sharma, Adv.

Mr. Akshat Kumar, Adv.

Ms. Reena Singh, Adv.
Ms. Megha Rani Ahuja, Adv.
Mr. Manish Kumar Gupta, AOR

Mr. Rajesh Kumar-1, AOR
Mr. Anant Gautam, Adv.
Mr. Nipun Sharma, Adv.

Mr. Deepak Bansal, Adv.
Roopak Bansal, Adv.
Mr. Ravi Kumar Tomar, AOR

Mr. Sanjeev Malik, Adv.
Mr. Udit Malik, Adv.
Mr. Ramana Murthy, Adv.

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

Mr. Utkarsh Sharma, AOR

Mr. Suchit Mohanty, Adv.
Ms. Vandana Mohanty, Adv.
Mr Dipesh Sinha, Adv.

Mr. Rituraj Biswas, AOR
Mr. Rituraj Choudhary, Adv.

Mr. Gopal Jain, Sr. Adv.
Mr. Sandeep Das, AOR
Ms. Sukanya Lal, Adv.
Mr. Sandeep Devashish Das AOR.

Ms. Vanshaja Shukla, AOR
Mr. Parmanand Yadav, Adv.
Ms. Anuja Pethia, Adv.

Ms. Pooja Mahajan, Adv.
Ms. Mahima Singh, Adv.
Mr. S. Mahajan Adv.
Mr. Avinash B. Amarnath, AOR

Mr. Chirag M. Shroff, Adv.
Ms. Abhilasha Bharti, Adv.
Mr. Sushant Dogra, Adv.

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

IA Nos 179388 of 2019 & 75594 of 2020

- 1 The subject matter of this segment is a Memorandum of Understanding (MOU) dated 14 December 2018 between Unitech Limited (Unitech) and Priadarshni Foundations Pvt Ltd (Priadarshni). A narration of the relevant facts has been set out in the convenience note dated 17 February 2021, tendered by the Additional Solicitor General, Mr N Venkataraman, which reads as follows:

**PART VIII-D- PURCHASE OF LAND BY PRIADARSHNI
FOUNDATIONS PRIVATE LIMITED - CHENNAI LAND SALE**

(i) Priadarshini Foundations Pvt. Ltd ['Priadarshini'] had entered into an MOU with Unitech Limited under the purview of Justice Dhingra Committee for purchase of approx. 380.38 acres of land at Sriperumbudur, Chennai at the rate of INR 82.00 lakh per acre i.e. for a total consideration of INR 311 crore, in phases.

(ii) As on date, Priadarshini has paid an amount of INR 60 crore to the Registry. Land worth INR 25 crore has already been registered in favour of Priadarshini and, hence, the balance amount of INR 35 crore (60 - 25) is lying with the Registry of the Hon'ble court as earnest money. As such, a total amount of Rs. 251 crore (311 - 60) is recoverable from Priadarshini on account of principal amount. The Hon'ble Court is requested to order for the payment of the balance sale consideration, along with interest thereon.

(iii) Land was to be registered in the name of Priadarshini in phases on the receipt of the respective amounts, as mentioned below:

Sr. No.	Date of Payment	Amount INR crore	Land to be registered (in acres)
1.	Advance to SC Registry	5.00	NIL
2.	On or before 15 days of the signing of MOU	45.00	30.50
3.	On or before 30 th April 2019	25.00	30.50
4.	On or before 31 st July 2019	25.00	30.50
5.	On or before 31 st Oct 2019	35.00	42.70
6.	On or before 31 st Jan 2020	35.00	42.70
7.	On or before 30 th April 2020	35.00	42.70
8.	On or before 31 st July 2020	35.00	42.70
9.	On or before 31 st Oct 2020	71.85	118.00
10.	Total	311.85	380.30

(iv) Priadarshini had earlier issued post-dated cheques of INR 15 crore (balance in lieu of 2nd Instalment). These cheques were presented to the bank by the Registry of the Hon'ble Court on 19.10.2019 but the same were dishonored due to insufficient balance.

(v) Priadarshini was to get the ownership of the land of its choice registered subject to the approval of the Committee on payment as per MoU. But since no payment was made, the proposed land was not registered.

(vi) The Hon'ble Court, vide its order dated 20.01.2020, directed Priadarshini to deposit the balance consideration (INR 110 crore overdue as on 31.01.2020) along with interest @ 12% within a period of 4 and 8 weeks i.e. by 29.02.2020 (50%) and by 31.03.2020 (50%).

(vii) The Hon'ble Apex Court took cognizance of the delay on the part of Priadarshini and was pleased to issue the following direction vide its order dated 31.07.2020:

"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 Foundations 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."

(viii) Therefore, a total amount of Rs. 251 crore (311-60) is recoverable from Priadarshini, on account of balance sale

consideration. The Hon'ble Court is requested to order for the payment of the balance sale consideration, along with interest thereon.

(ix) It is relevant to point out that the amount of Rs. 30 crores as referred in the order dated 31.07.2020 is based on the figure supplied by the Ld. Amicus Curiae inadvertently in his status report dated 29.07.2020. This amount has been relied upon by the Justice Dhingra Committee in its report dated 20.07.2020. This figure, in fact, should have been Rs. 35 crores.

(x) In view of the above, Priadarshini may either deposit the entire outstanding amount, alongwith interest, in a stipulated time period or the amount of Rs. 35 crores deposited with the Registry be forfeited in view of order passed by this Hon'ble Court. Timely payments to be made to Unitech are crucial for carrying out the operations and constructions of flats. Hence, no further extension of time can be granted. Priadarshini is already in default since 2019 and has blocked substantial asset of the Company without payment of any amounts.

(xi) It is relevant to mention that as per Clause 1.3 of the MOU dated 14.12.2018, the Buyer was entitled to get the land transferred only after the payment of a particular tranche, whereas, the Priadarshini has remained in complete default on this account. Hence, there is no omission on Unitech Limited's part to transfer the land."

2 Briefly stated, the material facts are as follows:

An MOU was entered into on 14 December 2018 between Unitech and Priadarshni for the sale of lands admeasuring 380.38 acres for a consideration of Rs 311.85 crores. Point (iii) above in the convenience note of the learned Additional Solicitor (which is reproduced in the above note) tabulates the payment schedule which was envisaged between the parties. Following the MOU, a meeting was held on 21 November 2018, together with Justice S N Dhingra, Chairperson of the Committee appointed by this Court. This was followed by a Term Sheet dated 6 December 2018. The Term Sheet envisaged that besides the initial deposit of Rs 5 crores submitted on 20 November 2018 in the Registry of this Court by Priadarshni, within fifteen days of the signing of the MOU or its approval by this Court, whichever is later, an amount of Rs 45 crores

would be deposited. Out of the total of Rs 50 crores, Rs 25 crores were to be retained with the Registry of this Court as EMD, including Rs 5 crores already deposited. For the balance of Rs 25 crores, a proportionate extent of land, as mutually agreed, was to be conveyed and registered in the favour of the buyer or its nominees. It is, thus, common ground that a total amount of Rs 50 crores has been deposited by Priadarshni in this Court, of which an amount of Rs 25 crores has been appropriated towards the transaction for the conveyance of an area which, according to the learned Additional Solicitor General, admeasures 32.23 acres. The time schedule indicated in the MOU was not fulfilled by the buyer as against the installment of Rs 25 crores, which fell due on 30 April 2019. Only an amount of Rs 10 crores was remitted.

- 3 Two orders were passed by this Court dealing with the subject matter of the above transaction with Unitech. The first of the two orders dated 20 January 2020, insofar as it pertains to the transaction in question, is extracted below:

“Chennai land sale

In respect of the land in Sriperumbudur, the MOU entered into by Unitech Limited with Priadarshini Foundations Pvt Ltd for the purchase of 380.38 acres of land at the rate of Rs 81 lakhs per acre is, according to the report of the *amicus curiae*, approved by the orders passed by this Court on 19 November 2018, 30 November 2018 and 7 December 2018.

As on date, according to the report of the *amicus curiae*, Rs 60 crores has been deposited in the Registry and an amount of Rs 85 crores is overdue as of 31 October 2019. An amount of Rs 15 crores was paid by three cheques which have been dishonoured on presentation.

We direct the purchaser, Priadarshini Foundations Pvt Ltd, to deposit the balance overdue as of date, inclusive of the overdue amount of Rs 85 crores as of 31 October 2019, within a period of four weeks from today in two equal tranches, the first of which shall be payable on or before the end of February 2020 and the second, on or before 31 March 2020, together with interest at the rate of 12% per annum.

The payments to be made shall be inclusive of the further deposits which fall due as per the schedule prescribed in the MOU.

Mr Rajiv Dutta, learned senior counsel, submits that the payments have fallen overdue because there were certain difficulties in the transfer of land from the affiliates of M/s Unitech Limited to the purchaser.

The *amicus curiae* has submitted before the Court that the modalities for the transfer of land would be duly completed and is being looked into by Justice Dhingra Committee. “

4 From the above order, it is evident that:

- (i) Priadarshni was in default of the payment of the installments due in terms of the MOU; and
- (ii) The Court allowed Priadarshni to deposit the balance overdue in two equal tranches, the first before the end of February 2020 and second before 31 March 2020, together with interest at the rate of 12% per annum. The above payments were inclusive of the further deposits which were to fall due.

5 Thereafter, a further order was passed by this Court on 31 July 2020. The following extract from the order considers the subject of the above land sale:

“(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."

- 6 From the above extract, it emerges that in view of the persistent default of Priadarshni, this Court was of the view that the earnest money of Rs 30 crores should be forfeited. Despite this, a final indulgence was granted by this Court to Priadarshni to pay the balance on or before 21 August 2020, failing which the forfeiture of INR 30 crores was to be final and absolute (It is common ground that the amount of forfeiture should be correctly read as Rs 35 crores instead of Rs 30 crores, that being the balance which is lying in the Registry of this Court).
- 7 Mr C S Vaidyanathan, learned Senior Counsel appearing on behalf of the applicant in the two applications, has urged submissions in support of the plea that the order of forfeiture, which was passed on 31 July 2020, should be recalled. It has been submitted that, as a matter of fact, on 31 July 2020, when the order was passed, Priadarshni could not be heard because of certain technical difficulties in the video conferencing platform, which has been noticed in the extract which has been cited above. Learned Senior Counsel submitted that, as a matter of fact, Priadarshni had addressed communications to Justice Dhingra on 13 March 2020 and 30 July 2020 raising certain concerns in regard to the fulfillment of the obligations by Unitech under the terms of the MOU. Reiterating these concerns, Mr Vaidyanathan submitted that:

- (i) The MOU does not specifically contain any condition of forfeiture in the event of default;
 - (ii) The MOU envisages that Unitech must be in a position to convey title to the buyer which is why payments were directed to be made in tranches;
 - (iii) The MOU contemplated that a Special Purpose Vehicle should be constituted for the purpose of ensuring the transfer of title from Unitech to the buyer; and
 - (iv) In the absence of due compliance by Unitech of its obligations under the terms of the MOU, it would be unfair to saddle the applicant with a forfeiture. In this context reliance has been placed on various clauses of the MOU, including Clauses 1.3, 1.4 and 2.1.
- 8 In the alternative, it has been submitted on behalf of the buyer that:
- (i) The buyer may be permitted an opportunity, at this stage, of remitting an amount of Rs 50 crores by 15 April 2021;
 - (ii) A reasonable period of time extending to eight months may be granted for completing the transaction; and
 - (iii) No interest may, however, be levied for the period between 23 March 2020, when the lock down was occasioned as a result of the outbreak of Covid-19 for a period of one year, ending on 31 March 2021.
- 9 Responding to the submissions of Mr Vaidyanathan, Mr N Venkataraman, learned Additional Solicitor General, submits that:

- (i) The MOU envisaged the sale of land admeasuring 380 acres comprised in different villages.
 - (ii) Of the total amount of land, which was agreed to be conveyed, land admeasuring 32.23 acres has been conveyed, for which an amount of Rs 25 crores, out of Rs 60 crores deposited in the Registry has been adjusted.
 - (iii) The objection in regard to absence of title is specious and, as a matter of fact, no objection was raised on the title of Unitech at any point of time;
 - (iv) The title deeds are available with the Company and if the buyer were to come forth with a ready offer of payment, title documents would have been produced so as to ensure the due transfer of title at the time of registration; and
 - (v) The buyer was in a position to deposit only an amount of Rs 10 crores out of the second tranche of Rs 25 crores and a cheque of Rs 15 crores was dishonoured.
- 10 Insofar as the question of title is concerned, it is evident from the MOU that Priadarshni and Unitech agreed to a specific time frame for the deposit of monies and for conveyance of title by the seller to the buyer. There is merit in the contention of the Additional Solicitor General that the buyer ought to have complied with the obligation to effect a deposit of the payments in accordance with the contractual time schedule. It is not the case of the buyer that it was ready with the money in spite of which Unitech was unable to convey title. There has been a default both in observing the time lines under the MOU as well as in terms of making the payments which were envisaged to be made from time to time. It is significant that Clause 1.5 of the MOU provides for the levy of interest at the rate of 18% per annum. Despite this, in order to furnish

Priadarshni with time to comply with its obligations, this Court, by its initial order dated 20 January 2020, allowed it to deposit the outstanding payments, together with interest at 12% per annum.

- 11 It is important to note at this stage that under the MOU, payments had fallen in arrears right from 30 April 2019 and by the time this Court passed its order on 20 January 2020, about seven months had elapsed from the date of the first default. It was in this context that despite the indulgence which was granted to make payments, together with interest, and upon the failure of the buyer to do so, an order of forfeiture was passed on 31 July 2020. Unless the buyer were to comply with the obligation of depositing monies, there would be no occasion for Unitech to convey the title to the land.

- 12 Be that as it may, a plea has been made by Mr Vaidyanathan that a reasonable opportunity may be granted to Priadarshni to deposit monies to complete the bargain. As we have already noted earlier, by the order of this Court dated 20 January 2020, time was granted for complying with the order of deposit by the end of February 2020 and for the balance by 31 March 2020. The subsequent order of this Court, while holding that there was a ground for forfeiture, nonetheless, granted time to pay the balance until 21 August 2020. The Court must take notice of the fact that in the meantime in March 2020, the Covid-19 pandemic broke out, as a result of which there was a serious dislocation of business operations having an impact on real estate business. The new management of Unitech has submitted that Priadarshni must, if it is granted an opportunity, comply with the terms of the bargain agreed by the parties on condition of forfeiture and pay interest for the delayed payment. In the circumstances, we are of the view that, conditional on Priadarshni demonstrating its *bona fides* by continuing to make a monthly deposit of Rs 50 crores, towards the amount which is overdue, together with interest, it should be given an

opportunity of being relieved from forfeiture. The Additional Solicitor General has informed the Court that the total amount which is due as of date is Rs 251.85 crores towards the principal and Rs 29.02 crores on account of interest computed at the rate of 12% .

13 Bearing in mind the above amount which is due, we are of the considered opinion that Priadarshni should be directed to pay the entire amount which is overdue, together with interest at the rate of 12% per annum, in six monthly installments. The first five installments shall be in the amount of Rs 50 crores each payable with effect from 30 April 2021, the succeeding installments being payable on the last day of each succeeding month. The sixth and final installment will be paid together with the accrued interest computed at 12% per annum.

14 We accordingly pass the following order:

- (i) In order to allow Priadarshni an opportunity to demonstrate its *bona fides* in complying with its obligations under the MOU dated 14 December 2018, it shall deposit, in the Registry of this Court, an amount of Rs 50 crores each, on or before 30 April 2021, 31 May 2021, 30 June 2021, 31 July 2021 and 31 August 2021;
- (ii) For the last and final instalment due on 30 September 2021, Priadarshni shall in addition to (i) above, deposit the balance of the principal and the accrued interest computed at the rate of 12% per annum, interest being computed from the due dates when the respective payments fell due. In the payment of the last installment, the amount of Rs 35 crores which is lying in the Registry shall be duly adjusted;

- (iii) In the event that Priadarshni commits a default in the payment of the first installment of Rs 50 crores on or before 30 April 2021, the amount of Rs 35 crores, which is lying in the Registry, shall stand forfeited;
 - (iv) The amount which has been deposited in the Registry of this Court shall stand forfeited in the event there are two or more consecutive defaults or a default in the payment of last installment; and
 - (v) Upon the payment of the last and final installment on 30 September 2021, the transaction for the conveyance of title to Priadarshni shall be effected under the auspices of the new Board of Management of Unitech constituted by the Union government.
- 15 It has been agreed between the learned Additional Solicitor General and Mr Vaidyanathan that, as and when required, inspection of documents of title shall be provided to the buyer.
- 16 The applications are accordingly disposed of.

Civil Appeal No 10856 of 2016 & SLP (Crl) Nos.5978-5979 of 2017

List the matters on 6 April 2021 at 2 pm.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER