

Revised

ITEM NO.4

COURT NO.1

SECTION XVII

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).10851/2016

ARVIND KUMAR GUPTA

Appellant(s)

VERSUS

UNITECH LTD. & ORS.

Respondent(s)

([MR. PAWANSHREE AGRAWAL (A.C.) ADVOCATE] and IA No.23393/2018-
impleading party and IA No.23396/2018-CLARIFICATION/DIRECTION)

WITH

C.A. No.10856/2016 (XVII)

C.A. Nos.2511-2526/2017 (XVII)

(IA No.66938/2017-EXTENSION OF TIME and IA No.90673/2017-EXTENSION
OF TIME)

C.A. Nos.5174-5181/2017 (XVII)

([[TO BE TAKEN UP ALONGWITH C.A.NO. 2511-2526/2017]])

IA No.53934/2017 - Clarification/direction

C.A. Nos.9391-9404/2017 (XVII)

(FOR FOR impleading party ON IA 98431/2017

FOR INTERVENTION/IMPLEADMENT ON IA 98431/2017)

C.A. No.15493/2017 (XVII)

(IA No.77581/2017-CONDONATION OF DELAY IN FILING and IA
No.77582/2017-CLARIFICATION/DIRECTION and IA No.78654/2017-
PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.82788/2017-
PERMISSION TO FILE ADDITIONAL DOCUMENTS)

SLP(Cr1) Nos.5978-5979/2017 (II-C)

IA No.73474/2017 - Application for exemption from filing Certified
as well as ordinary plain copy of the impugned order;

IA No.4543/2018 - Application for substitution;

IA No.123121/2017 - Appropriate orders/directions;

IA No.32223/2018 - Appropriate orders/directions;

IA 87314/2017 - Appropriate orders/Directions;

IA 22112/2018 - Appropriate orders/Directions;

IA 139538/2017 - Appropriate orders/Directions;

IA 20867/2018 - Appropriate orders/Directions;

IA 46262/2018 - Appropriate orders/Directions;

IA 72036/2018 - Clarification/Direction;

IA 72196/2018 - Clarification/Direction;

IA 137532/2017 - Clarification/Direction;

IA 72035/2018 - Clarification/Direction;

IA 97616/2018 - Clarification/Direction;

IA 72149/2018 - Clarification/Direction;

IA 96561/2018 - Clarification/Direction;

IA 115336/2017 - Clarification/Direction;

IA 137527/2017 - Clarification/Direction;
IA 29029/2018 - Clarification/Direction;
IA 45689/2018 - Clarification/Direction;
IA 63414/2018 - Clarification/Direction;
IA 71484/2018 - Clarification/Direction;
IA 72489/2018 - Clarification/Direction;
IA 88565/2018 - Clarification/Direction;
IA 368/2018 - Clarification/Direction;
IA 43789/2018 - Clarification/Direction;
IA 60021/2018 - Clarification/Direction;
IA 94632/2018 - Clarification/Direction;
IA 86305/2017 - Clarification/Direction;
IA 98455/2018 - Clarification/Direction;
IA 121642/2017 - Clarification/Direction;
IA 137522/2017 - Clarification/Direction;
IA 137547/2017 - Clarification/Direction;
IA 26582/2018 - Clarification/Direction;
IA 51299/2018 - Clarification/Direction;
IA 67003/2018 - Clarification/Direction;
IA 72212/2018 - Clarification/Direction;
IA 81402/2018 - Clarification/Direction;
IA 98452/2018 - Clarification/Direction;
IA 13047/2018 - Clarification/Direction;
IA 23580/2018 - Clarification/Direction;
IA 23876/2018 - Clarification/Direction;
IA 41514/2018 - Clarification/Direction;
IA 51294/2018 - Clarification/Direction;
IA 62930/2018 - Clarification/Direction;
IA 71472/2018 - Clarification/Direction;
IA 85479/2018 - Clarification/Direction;
IA 91001/2017 - Clarification/Direction;
IA 123132/2017 - Clarification/Direction;
IA 135534/2017 - Clarification/Direction;
IA 137540/2017 - Clarification/Direction;
IA 38156/2018 - Clarification/Direction;
IA 71464/2018 - Clarification/Direction;
IA 72200/2018 - Clarification/Direction;
IA 91131/2018 - Clarification/Direction;
IA 110495/2017 - Clarification/Direction;
IA 62412/2018 - Clarification/Direction;
IA 79963/2018 - Intervention Application;
IA 85350/2018 - Intervention Application;
IA 91130/2018 - Intervention Application;
IA 97630/2018 - Intervention Application;
IA 90004/2017 - Intervention Application;
IA 90575/2017 - Intervention Application;
IA 90881/2017 - Intervention Application;
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IA 91918/2017 - Intervention Application;
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IA 99968/2017 - Intervention Application;
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IA 107233/2017 - Intervention Application;
IA 109671/2017 - Intervention Application;
IA 110486/2017 - Intervention Application;
IA 118696/2017 - Intervention Application;
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IA 112057/2017 - Intervention Application;
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IA 18103/2018 - Intervention Application;
IA 48917/2018 - Intervention Application;
IA 67001/2018 - Intervention Application;
IA 72211/2018 - Intervention Application;
IA 80246/2018 - Intervention Application;
IA 98447/2018 - Intervention Application;
IA 90011/2017 - Intervention Application;
IA 91934/2017 - Intervention Application;
IA 95374/2017 - Intervention Application;
IA 101725/2017 - Intervention Application;
IA 105291/2017 - Intervention Application;
IA 105668/2017 - Intervention Application;
IA 106316/2017 - Intervention Application;
IA 107245/2017 - Intervention Application;
IA 110321/2017 - Intervention Application;
IA 110529/2017 - Intervention Application;
IA 118820/2017 - Intervention Application;
IA 138388/2017 - Intervention Application;
IA 141166/2017 - Intervention Application;
IA 4267/2018 - Intervention Application;
IA 18095/2018 - Intervention Application;
IA 23533/2018 - Intervention Application;
IA 51293/2018 - Intervention Application;
IA 57412/2018 - Intervention Application;
IA 62925/2018 - Intervention Application;
IA 72065/2018 - Intervention Application;

IA 80237/2018 - Intervention Application;
IA 85478/2018 - Intervention Application
IA 98444/2018 - Intervention Application;
IA 90008/2017 - Intervention Application;
IA 90581/2017 - Intervention Application;
IA 90999/2017 - Intervention Application;
IA 91672/2017 - Intervention Application;
IA 91929/2017 - Intervention Application;
IA 95334/2017 - Intervention Application;
IA 100788/2017 - Intervention Application;
IA 105189/2017 - Intervention Application;
IA 105657/2017 - Intervention Application;
IA 106313/2017 - Intervention Application;
IA 107239/2017 - Intervention Application;
IA 109954/2017 - Intervention Application;
IA 118816/2017 - Intervention Application;
IA 137538/2017 - Intervention Application;
IA 138372/2017 - Intervention Application;
IA 140009/2017 - Intervention Application;
IA 18092/2018 - Intervention Application;
IA 23380/2018 - Intervention Application;
IA 51259/2018 - Intervention Application;
IA 71446/2018 - Intervention Application;
IA 133342/2017 - Intervention/Impleadment;
IA 139971/2017 - Intervention/Impleadment;
IA 23754/2018 - Intervention/Impleadment;
IA 51232/2018 - Intervention/Impleadment;
IA 55573/2018 - Intervention/Impleadment;
IA 66087/2018 - Intervention/Impleadment;
IA 71438/2018 - Intervention Application;
IA 72189/2018 - Intervention Application;
IA 90877/2018 - Intervention Application;
IA 98660/2017 - Intervention/Impleadment;
IA 123118/2017 - Intervention/Impleadment;
IA 23751/2018 - Intervention/Impleadment;
IA 51226/2018 - Intervention/Impleadment;
IA 107191/2017 - Intervention/Impleadment;
IA 122885/2017 - Intervention/Impleadment;
IA 23739/2018 - Intervention/Impleadment;
IA 51222/2018 - Intervention/Impleadment;
IA 87309/2017 - Intervention/Impleadment;
IA 122293/2017 - Intervention/Impleadment;
IA 23736/2018 - Intervention/Impleadment;
IA 23734/2018 - Intervention/Impleadment;
IA 49450/2018 - Intervention/Impleadment;
IA 90697/2017 - Intervention/Impleadment;
IA 105437/2017 - Intervention/Impleadment;
IA 59884/2018 - Intervention/Impleadment;
IA 91143/2018 - Intervention Application;
IA 90659/2017 - Intervention/Impleadment;

- IA 91692/2017 - Intervention/Impleadment;
- IA 23875/2018 - Intervention/Impleadment;
- IA 66759/2018 - Intervention/Impleadment;
- IA 123125/2017 - Intervention/Impleadment;
- IA 135533/2017 - Intervention/Impleadment;
- IA 3435/2018 - Intervention/Impleadment;
- IA 12896/2018 - Intervention/Impleadment;
- IA 32565/2018 - Intervention/Impleadment;
- IA 46255/2018 - Intervention/Impleadment;
- IA 55575/2018 - Intervention/Impleadment;
- IA 66094/2018 - Intervention/Impleadment;
- IA 23251/2018 - Permission to appear and argue in person;
- IA 108851/2017 - Permission to appear and argue in person;
- IA 108822/2017 - Permission to appear and argue in person;
- IA 138368/2017 - Permission to file application for direction;
- IA 107196/2017 - Permission to file application for direction;
- IA 71828/2018 - Permission to file application for direction;
- IA 73472/2017 - Permission to file SLP without certified / plain copy of impugned order;
- IA 23839/2018 - Permission to place on record subsequent facts;
- IA 4504/2018 - Permission to place on record subsequent facts;
- IA 72068/2018 - Recalling the Court's Order; and
- IA 13046/2018 - Seeking custody certificate.

C.A. No.11008/2017 (XVII)

(IA No.80805/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.85513/2017-INTERVENTION/IMPLEADMENT and IA No.85519/2017-INTERVENTION/IMPLEADMENT and IA No.85880/2017-INTERVENTION/IMPLEADMENT and IA No.95992/2017-impleading party and IA No.98113/2017-APPROPRIATE ORDERS/DIRECTIONS and IA No.98117/2017-DELETING THE NAME OF RESPONDENT)

C.A. Nos.17008-17011/2017 (XVII)

(and FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 94736/2017 FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 96100/2017 FOR CLARIFICATION/DIRECTION ON IA 15770/2018)

IA No.94577/2017 - Exemption from filing c/c of the impugned judgment

C.A. No.16858/2017 (XVII)

(FOR ADMISSION and IA No.97166/2017-PERMISSION TO FILE APPEAL and IA No.112640/2017-impleading party and IA No.112648/2017-APPLICATION FOR TRANSPOSITION and IA No.128215/2017-impleading party)

SLP(C) No.30997/2017 (XVII)

(FOR ADMISSION and I.R.)

C.A. No.20003/2017 (XVII)

(IA No.119851/2017-CONDONATION OF DELAY IN FILING and IA No.119859/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.119854/2017-CONDONATION OF DELAY IN REFILING and IA No.119862/2017-APPROPRIATE ORDERS/DIRECTIONS)

C.A. No.3727/2018 (XVII)

(FOR ADMISSION and I.R. and IA No.41950/2018-CONDONATION OF DELAY IN FILING and IA No.41952/2018-APPROPRIATE ORDERS/DIRECTIONS) SLP(C) No.12667/2018 (XVII)
(FOR ADMISSION and I.R. [TO BE TAKEN UP ALONGWITH ITEM NO. 31 I.E. C.A.NO.10851/2016])
C.A. Nos.6837-6838/2018 (XVII)
Diary No(s).20540/2018 (XVII)
(IA No.104959/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.104957/2018-CONDONATION OF DELAY IN FILING APPEAL and IA No.104958/2018-CONDONATION OF DELAY IN REILING)

Date : 11-09-2018 These appeals/petitions were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

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Mr.Abhinav Agrawal, Adv.
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Mr.Ashish Yadav, Adv.
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Mr.Yashovardhan Oza, Adv.

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Mr.Sonit Sinhmar, Adv.

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Mr.Gaurav Goel, Adv.**

**Mr.Aneesh Mittal, Adv.
Mr.Shreya Sharma, Adv.**

Mr.P.N.Puri, AOR

Mr.Rakesh Mishra, AOR

Mr.Arjun Harkauli, AOR

Mr.Roopansh Purohit, AOR

Mr.Balaji Srinivasan, AOR

Ms.Mridula Ray Bhardwaj, AOR

Mr.Vineet Bhagat, AOR

Mr.Sureshan P., AOR

Ms.Sujata Kurdukar, AOR

Ms.Sonal Jain, AOR

Ms.Shobha Gupta, AOR

Mr.Shantanu Sagar AOR

Mr.S.Rajappa, AOR

Mr.S.K.Verma, AOR

Mr.Ravindra Kumar, AOR

Mr.Ranjit Kumar Sharma, AOR

Mr.Rameshwar Prasad Goyal, AOR

Ms.Rakhi Ray, AOR

Mr.Rajesh Singh, AOR

Mr.Rajeev Singh AOR

Mr.K.K.Mohan, AOR

Ms.Kamkshi S.Mehlwal, AOR

Mr.M.Yogesh Kanna, AOR

Mr.Nishit Agrawal, Adv.

Ms.Manjula Gupta, AOR

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

This matter was directed to be listed today awaiting the progress of auction with regard to the property situated in Calcutta.

It is submitted by Mr.Pawanshree Agarwal, learned amicus curiae, that the property has been auctioned under the supervision of the Committee headed by Justice S.N.Dhingra, a former Judge of the Delhi High Court. The price obtained in the auction is Rs.116.95 crores. Mr.Pawanshree Agarwal, learned amicus submits that he has got a draft of Rs.28,89,56,250/- (Rupees twenty eight crores, eighty nine lakhs, fifty six thousand two hundred fifty only). Let the draft be deposited before the Registry of this Court. The Registry is directed to deposit the said amount in a short term fixed deposit in the UCO Bank, Supreme Court Compound, New Delhi. It is further submitted by Mr.Pawanshree Agarwal that the balance amount will be deposited within a week, as has been

assured by the auction purchaser. Let it be so done.

Mr.Agarwal has drawn our attention to the order dated 27.07.2018 wherein it was thought of keeping aside certain amount so that 514 flats can be constructed and delivered to the home buyers. The Committee has demarcated five projects, which have been filed before us by way of a chart by Mr.Pawanshree Agarwal. The said chart is as follows:

Project	Location	Block/Tower	Fund allocation as per Unitech	Fund as per the Committee
Vistas#	Gurgaon	A9/A10/A11	7.11	7.0
Unihomes	Mohali	B1 - B16 B146-B164 A43-A52	5.15	5
Horizon	Greater Noida	T22	2.2	2
Verve	Greater Noida	T1	5.6	5
Unihomes 117	Noida	A1	1.7	2
TOTAL			21.76	21

It is also worth-noting that the Committee has recorded certain observations with regard to the aforesaid projects and the work which will be done by Unitech. On the basis of the suggestions given by the Committee, learned amicus curiae has requested for issue of following directions:

1. The amount of Rs.21 crores should be transferred by the Registry of this Hon'ble Court to an Unitech Escrow account opened by the Chairman of the Committee where the Chairman is a signatory.
2. The allocation of funds and construction in the

aforesaid projects should be monitored by Justice S.N.Dhingra Committee.

3. The construction should be made strictly within the timeline agreed to and mentioned by the Unitech before the Committee with regard to aforementioned projects.

Mr.Agarwal has given the Unitech Ltd. Committee Escrow Account No.50200032645915 (IFSC/RTGS HDFC0009239) of HDFC Bank. Let a draft of Rs.21,00,00,000/- (Rupees twenty one crores only) be prepared by the Registry in the name of Unitech Ltd. Committee Escrow Account and handed over the same to Mr.Pawanshree Agarwal, who shall hand over the same to the Chairman of the Committee, who in turn, shall deposit the said amount and oversee the allocation of funds and construction. M/s Unitech shall carry the construction as per the instructions of the Committee.

At this juncture, learned counsel appearing on behalf of certain home buyers submitted that they are also interested to take over possession after the building is complete. Be it noted, their flats are situated in projects/towers other than the five mentioned hereinbefore. They may give their option to Mr.Pawanshree Agarwal, who will apprise the Committee. The Committee shall estimate the costs and apprise this Court so that further directions can be issued.

Let these matters be listed on 19.09.2018.

(Chetan Kumar)
AR-cum-PS

(H.S.Parasher)
Assistant Registrar

