

ITEM NO.301

COURT NO.4

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 IA No.50706/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.50683/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.116163/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.81663/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.57580/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.112090/2021 - INTERVENTION, IA No.79304/2020 - INTERVENTION, IA No.50704/2021 - INTERVENTION/IMPLEADMENT, IA No.81660/2021 - INTERVENTION/IMPLEADMENT, IA No.57581/2021 - INTERVENTION/IMPLEADMENT and IA No.5463/2021 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

Date : 28-10-2021 These matters were called on for hearing today.

CORAM :

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

For Appellant(s)

Mr. Deepak Goel, AOR

For Respondent(s)

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

Ms. Madhvi Divan, ASG  
Ms. Shraddha Deshmukh, Adv.  
Mr. Chinmay Chandra, Adv.  
Mr. Prashant Singh B, Adv.  
Mr. Siddhant Kohli, Adv.

Mr. Rajan Kr. Chourasia, Adv.  
Mr. Amrish Kumar, Adv.  
Mr. Raj Bahadur Yadav, Adv.  
Mr. Shekhar Vyas, Adv.  
Mr. Ayush Puri, Adv.  
Ms. Praveena Gautam, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. M.K. Maroria, Adv.  
Mr. Arvind Kumar Sharma, AOR

Mr. Pawanshree Agrawal, AOR

Ms. Manju Jetley, AOR

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

Dr. Vinod Kumar Tewari, AOR

Mr. Milind Kumar, AOR

Mr. Amit Agrawal, AOR  
Ms. Radhika Yadav, Adv.  
Mr. Naman Khatwani, Adv.

Mr. Sonal Jain, AOR

Mr. Vikramjit Banerji, Sr. Adv.  
Ms. Adity Gupta, Adv.  
Ms. Jasmine Damkewala, AOR  
Ms. Vaishali Sharma, Adv.  
Mr. Dinesh Chander Trehan, Adv.

Mr. Gaurav Goel, AOR

Mr. E.C. Agrawala, AOR

Mr. Rajesh Kumar Gautam, AOR  
Mr. Anant Gautam, Adv.  
Mr. Nipun Sharma, Adv.  
Mr. Ravi Solanki, Adv.

Mr. Arvind Gupta, AOR  
Mr. Ravindra Tiwary, Adv.  
Mr. Vivek Bhojrajka, Adv.  
Mr. Pankaj Singh, Adv.  
Mr. Vipin Kumar, Adv.

Mr. B. Krishna Prasad, AOR

Mr. Pradeep Chindra, Adv.  
Mr. Rajan Chawla, AOR

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

Mr. Ravindra Kumar, AOR

Mr. Dhruv Tamta, AOR

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

Mr. Manish Kumar Gupta, AOR

Mr. Neeraj Shekhar, AOR

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

Mr. Rajesh Kumar Chaurasia, AOR

Mr. Atul Kumar, AOR

Mr. Utsav Trivedi, Adv.  
Mr. Abhinay, AOR  
Mr. Milinda Sharma, Adv.  
Ms. Unnati Vijay, Adv.  
Ms. Shivani Bhushan, Adv.  
Ms. Aishwarya Samal, Adv.

Ms. Shruti Agarwal, AOR

Mr. Pranav Kumar, AOR

Mr. D.S. Chauhan, AOR

Ms. Ruchi Singh, Adv.

Mr. Prashant Kumar, Adv.

Mr. Deepak M. Nargolkar, Sr. Adv.

Mr. Anant Kumar Vatsya, Adv.

Dr. Avinash Poddar, Adv.

Mr. Shiv Kumar, Adv.

Mr. Ashish Kumar Sinha, Adv.

Mr. Devendra Singh, AOR

Mr. Ritin Rai, Sr. Adv.

Mr. Rajshekhar Rao, Sr. Adv.

Ms. Liz Mathew, AOR

Ms. Zehra Khan, Adv.

Ms. Kritika Bhardwaj, Adv.

Mr. Vinayak Mehrotra, Adv.

Ms. Sonali Jain, Adv.

Mr. Areeb Amanullah, Adv.

Ms. Shreya Choudhary, Adv.

Ms. Vasudha Jain, Adv.

Mr. Anil Kumar, Adv.

Mr. Kamal Mohan Gupta, AOR

Mr. Anand Sukumar, Adv.

Mr. S. Sukumaran, Adv.

Mr. Bhupesh Kumar Pathak, Adv.

Ms. Meera Mathur, AOR

Mr. Mohit Paul, AOR

Mr. Mohit Jolly, Adv.

Ms. Chand Chopra, Adv.

Ms. Sunaina Phul, Adv.

Ms. Dipika Jain, Adv.

Mr. Kaustubh Shukla, AOR

Mr. Braj Kishore Mishra, AOR

Mr. Vinod Kumar, Adv.

Mr. Abhishek Yadav, Adv.

Mr. Utkarsh Sharma, AOR

Mr. Kaushik Choudhury, AOR

Mr. Sharath Sampath, Adv.

Mr. Tarun Mehta, Adv.

Mr. Manikya Khanna, Adv.

Ms. Nidhi Mohan Parashar, AOR

Mr. Pratyaksh Sharma, Adv.

Mr. Aditya Krishna, Adv.

Mr. Tushar Singh, AOR

Mr. Sarad Kumar Singhanian, AOR

Mr. M.P. Vinod, AOR

Ms. Priyanjali Singh, AOR

Mr. Rahul Rathore, Adv.

Mr. Vikram Hegde, Adv.

Mr. Shantanu Lakhotia, Adv.

Ms. Hima Lawrence, AOR

Mr. Rajiv Mehta, AOR

Mr. Vineet Bhagat, AOR

Mr. Arvind Kumar Tewari, AOR

Ms. Sujata Kurdukar, AOR

Ms. Anshula Vijay Kumar Grover, AOR

Mr. Neeraj Kumar Gupta, AOR

Mr. Jappanpreet Hora, Adv.

Mr. Prabjot Hora, Adv.

Mr. A. Karthik, AOR

Mr. Sudhansu Palo, AOR

Mr. Ravi Panwar, AOR

Mr. Raj Kamal, AOR

Mr. Amit Shrivastava, AOR

Mr. Krishnan Venugopal, Sr. Adv.

Mr. Sanjay Bhatt, Adv.

Ms. Akansha Srivastava, Adv.

Mr. Rabin Majumder, AOR

Mr. Sunil Fernandes, AOR

Mr. Romy Chacko, AOR

Mr. Kumar Dushyant Singh, AOR

Ms. Rashi Bansal, AOR

Mr. Aman Raj Gandhi, AOR

Mr. Anshay Dhatwalia, Adv.

Mr. Vishnu Mohan Nair, Adv.

Ms. Kumud Nijhawan, Adv.

Mr. Ashwani Kumar, AOR

Mr. Senthil Jagadeesan, AOR

Mr. Shashank Manish, AOR

Ms. Rupy Singh Ahjuja, Adv.

Ms. Hancy Maini, Adv.

Ms. Kritika Sachdeva, Adv.

M/s. Karanjawala & Co.

Mr. Ashish Kamat, Adv.

Mr. Ajay Vazirani, Adv.

Mr. Devmalya 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.

Mr. C.K. Sasi, AOR

Mr. Sanjay Kumar Tyagi, AOR

Mr. P.K. Jain, AOR

Mr. Sandeep Devashish Das, AOR

Mr. Dushyant Sarna, Adv.

Mr. Manish Shanker Srivastava, Adv.

Mr. Vivek Srivastava, Adv.

Mr. Abhishek Kumar Singh, AOR

Ms. Pallavi Baghel, Adv.

Mr. Raj Bahadur Yadav, AOR

Mrs. Pragya Baghel, AOR

Mr. Dileep Poolakkot, Adv.

Mr. Harshad V. Hameed, AOR

Mrs. Ashly Harshad, Adv.

Mr. Nitin Saluja, AOR

Mr. Mukesh Kumar Maroria, AOR

Mr. Sumit R. Sharma, AOR

Mr. Vipin Kumar Jai, AOR

Mr. Aakarsh Kamra, AOR

Dr. Lalit Bhasin, Adv.

Ms. Nina Gupta, Adv.

Ms. Ananya Marwah, Adv.

Ms. Ruchika Joshi, Adv.

Mr. P.V. Yogeswaran, AOR

Mr. Nikilesh Ramachandran, AOR

Mr. Pratap Venugopal, Adv.

Ms. Surekha Raman, Adv.

Mr. Akhil Abraham Roy, Adv.

Mr. Vijay Valsan, Adv.

**M/s. K J John And Co.**

**Mr. Divyesh Pratap Singh, AOR**

**Mr. Nakul Mohta, Adv.  
Ms. Misha Rohatgi, AOR  
Mr. Devansh Shrivastava, Adv.**

**M/s. Udit Kishan And Associates**

**Mr. Preshit Vilas Surshe, AOR**

**Mr. Ashish Virmani, AOR**

**Mr. B. Ramana Murthy, AOR**

**Mrs. Geetha Kovilan, AOR**

**Mr. V.K. Monga, AOR**

**Ms. Astha Tyagi, AOR**

**Mr. Abhishth Kumar, AOR**

**Ms. Vibha Datta Makhija, Sr. Adv.  
Mr. Shariq Ahmed, Adv.  
Mr. Tariq Ahmed, Adv.  
Mr. Praveen Gaurav, Adv.  
Mr. Sunil Kumar Verma, AOR**

**Petitioner-in-person**

**Mr. M.L. Lahoty, Adv.  
Mr. Paban K. Sharma, Adv.  
Mr. Anchit Sripat, Adv.**

**Ms. Shikha Dixit, Adv.**

**Mr. Janak Dwarkadas, Sr. Adv.  
Mr. Chitranshul A Sinha, Adv.  
Mr. Anil Agarwal, Adv.  
Mr. Chirag Kamdar, Adv.  
Mr. Jaskaran Singh Bhatia, Adv.  
M/s. Dua Associates**

Mr. Syed Jafar Alam, Adv.  
Ms. Varuna Bhanrale, Adv.  
Mr. Sumit Nagpal, Adv.

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

Mr. Vikram Nankani, Sr. Adv.  
Mr. Vipin Jain, Adv.  
Mr. Shwetabh Sinha, Adv.  
Mr. Ujjal Banerjee, Adv.  
Mr. Ashish Rao, Adv.  
Mr. Akash Khurana, Adv.

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

**IA No 50683/2021 in CA No 10856/2016**

- 1 Mr N Venkataraman, learned Additional Solicitor General has submitted a report titled 'Action Taken Report - II' in pursuance of the previous order of this Court dated 21 October 2021.
- 2 Since the report contains averments in relation to the agreements which have been entered into by Suraksha ARC with ICICI group entities and with the erstwhile management of Unitech Limited, we consider it appropriate to grant some time to the learned counsel for Suraksha ARC to take instructions and respond to the Action Taken Report - II.
- 3 We permit the new Board of Management of Unitech Limited constituted by the Government of India to proceed ahead with the appointment of Project Management Consultants for Part A of the Scope of Work, except the Award of Contracts. Part A of the work to be done by the PMCs at this stage shall cover the following items (except vii below):

- (i) Complete the process of verification of present status of each project site and finalization of accounts of the existing contractors;
- (ii) Undertake and complete the process of fore-closure/abrogation of the existing contracts and handing over and taking over of Works;
- (iii) Preparation of Detailed Project Reports (DPRs) for the balance works of each project, comprising the Bill of Quantities (BOQs) and the Cost Estimates of balance works;
- (iv) Preparation of the Tender Documents for the balance works of all the project sites;
- (v) Preparation of budget, cash flow requirements and time-lines for Completion Programme of each project;
- (vi) Appraise the need for preparation and submission of revised layout plans/ building plans and assist in submission and approval of such revised layouts/ building plans from the respective competent authorities;
- (vii) Complete the Bid management process (including Preparation of bid document, invitation of bids and their evaluation) and submit recommendations to the Management;
- (viii) Prepare the completion schedule along with budget and cash-flow requirements for completion of the projects;
- (ix) Develop the Management Information System and

Reporting formats covering the complete scope of work for creation and maintenance of records and effective monitoring of the progress of work.

- 4 We clarify that at this stage, no award of contracts shall be undertaken by the PMCs without the express prior permission of this Court. The ambit of the work of PMCs shall exclude item (vii) above at the present stage. The above permission shall be without prejudice to the rights and contentions of all the secured creditors.
- 5 Paragraph 4 of the affidavit dated 16 August 2021 filed by the Chief Operating Officer on behalf of the new Board of Management clarifies that the fees payable to the PMCs for Part A of the Scope of Work (Pre-Project Activities) is 0.45% of the initially estimated costs. The estimated costs on the basis of which 0.45% is to be computed are Rs 5,000 crores, subject to finalization.
- 6 List the application on 10 November 2021 at 3.00 pm.

**IA 57580 and 57581 of 2021 in Civil Appeal No 10856 of 2016, IA 81660 and 81663 of 2021 in Civil Appeal No 10856 of 2016, IA No 112090 of 2021 IA 50704 and 50706 of 2021 in Civil Appeal No 10856 of 2016 with IA Nos 79304 of 2020 and IA No 5463 of 2021**

- 1 List the applications at 3 pm on 10 November 2021.

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

**(SAROJ KUMARI GAUR)**  
Court Master