

ITEM NO.301

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
RECORD OF PROCEEDINGS

Civil Appeal No(s).10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(WITH IA No. 50683/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 172303/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 68319/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 100079/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 29516/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 12105/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 97388/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 96264/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 77813/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 152952/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 80954/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 50706/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 77795/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 104016/2021 - CLARIFICATION/DIRECTION, IA No. 70286/2020 - CLARIFICATION/DIRECTION, IA No. 104097/2021 - CLARIFICATION/DIRECTION, IA No. 174136/2022 - CLARIFICATION/DIRECTION, IA No. 134992/2020 - EARLY HEARING APPLICATION, IA No. 103121/2022 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 104094/2021 - INTERVENTION APPLICATION, IA No. 77794/2022 - INTERVENTION APPLICATION, IA No. 79304/2020 - INTERVENTION APPLICATION, IA No. 104012/2021 - INTERVENTION APPLICATION, IA No. 70271/2020 - INTERVENTION APPLICATION, IA No. 81090/2020 - INTERVENTION APPLICATION, IA No. 77802/2022 - INTERVENTION APPLICATION, IA No. 80947/2020 - INTERVENTION/IMPLEADMENT, IA No. 50704/2021 - INTERVENTION/IMPLEADMENT, IA No. 68334/2022 - INTERVENTION/IMPLEADMENT, IA No. 47795/2021 - INTERVENTION/IMPLEADMENT, IA No. 100070/2021 - INTERVENTION/IMPLEADMENT, IA No. 29514/2022 - INTERVENTION/IMPLEADMENT, IA No. 103115/2022 - INTERVENTION/IMPLEADMENT, IA No. 12103/2020 - INTERVENTION/IMPLEADMENT, IA No. 153005/2021 - INTERVENTION/IMPLEADMENT, IA No. 100828/2019 - INTERVENTION/IMPLEADMENT, IA No. 96157/2021 - INTERVENTION/IMPLEADMENT, IA No. 172293/2022 - MODIFICATION OF COURT ORDER, IA No. 172305/2022 - PERMISSION TO APPEAR AND ARGUE IN PERSON, IA No. 5463/2021 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

WITH

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

(WITH IA No. 85172/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.

118046/2018 - CLARIFICATION/DIRECTION, IA No. 83361/2020 -
INTERVENTION APPLICATION)

Date : 01-02-2023 These matters were called on for hearing today.

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HON'BLE MR. JUSTICE M.R. SHAH

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

Re: Noida

- 1 Mr N Venkataraman, Additional Solicitor General, has placed on the record a convenience note for the purpose of the hearing. The note also provides an Action Taken Report.
- 2 The convenience note which has been prepared by the government nominated Board of Unitech indicates that the proposed layout plans for Sectors 96-97-98, 113 and 117 (which are Noida based projects) have been approved by the Board. The home buyers are stated to have indicated their consent to the proposed layout plans in the following manner:
 - (a) In Sector 96-97-98 Noida, 72.76% home buyers have given their consent;
 - (b) In Sector 113 Noida, 67.68% home buyers have given their consent; and

- (c) In Sector 117 Noida, 68.15% home buyers have given their consent.
- 3 It has been stated that Unitech is in a position to upload the applications for approval of the revised layout plans, building plans/revised building plans and other statutory applications to Noida within seven working days.
- 4 The relief which has been sought, at this stage, is that Noida may be directed to process the applications for approval of the revised layout plans, building plans and ancillary approvals in a time bound manner without insisting on upfront payment of any dues. At the same time, it has been stated that the current application fees/scrutiny fees shall be paid by Unitech at the time of the submission of the applications.
- 5 In similar circumstances, this Court had passed an order on 27 July 2022 directing the Department of Town and Country Planning, Haryana to dispose of the applications and grant renewals within a period of four weeks without insisting on upfront payment of outstanding dues. However, this Court clarified that the modalities for payment of outstanding dues shall be worked out in consultation, after hearing the Department of Town and Country Planning, Haryana in due course.
- 6 Having regard to the contents of the convenience note submitted by the Additional Solicitor General, it is apparent that a substantial number of home buyers have now expressed their confidence in the proposed construction in the above sectors. At this stage, it would be appropriate if Noida processes the applications for approval of revised layout plans, building plans and ancillary approvals without insisting on upfront payment of dues. However, the Board of Unitech shall pay the current application fees/scrutiny fees as payable in law.

7 We defer the issue pertaining to the payment of outstanding dues which shall be determined in due course after due opportunity of hearing to both Noida and the government appointed Board of Unitech. The directions which have been issued to Noida would be subject to the outcome of the pending Special Leave Petition, namely, SLP(C) No 9572 of 2007.

Re: Refund of the FD holders on account of medical emergencies

8 As regards the refund to the Fixed Deposit holders on the ground of medical emergencies, Mr Justice A M Sapre has recommended payment to a total of 548 FD holders holding 993 FDRs in the following manner:

(a) Repayment of full principal amount has been recommended to 510 FD holders; and

(b) Partial payment of principal has been recommended to 38 FD holders.

9 In the above manner, an amount of Rs 13.19 crore would be repaid on medical emergencies to 548 FD holders in terms of the approval granted by Mr Justice A M Sapre.

10 The claims which have been duly verified by Mr Justice A M Sapre are permitted to be disbursed in the manner, as suggested, to 548 FD holders.

11 The Registry shall accordingly release the amount as certified by the Advocate-on-Record appearing on behalf of the government appointed Board of Unitech. The office report dated 31 January 2023 indicates that an FDR, bearing A/c No 1303-M, is maturing on 5 February 2023. This amount may be adjusted towards payment of the amount to the FD holders. After the disbursement is made, necessary proof of payment shall be filed with the Registry, together with a tabulated statement. The list of 548 FD holders to whom payment is to be

made, together with the corresponding payment against each name, shall be uploaded on the website of Unitech for information.

Re: Web Portal

12 During the course of the hearing, certain applicants have sought a direction for re-opening of the web portal since the applicants were unable to submit their claims within time.

13 Mr N Venkataraman, on the other hand, submitted that it would be appropriate if the copies of the IAs of such persons, whether home buyers or FD holders, is made available to the Advocate-on-Record for Unitech. After the copies of the IAs are made available to the AOR for Unitech, a considered view can be taken on whether the web portal should be opened any further and, if so, for which period.

Re: Suggestions from home buyers regarding revised payment plan pursuant to order dated 17 August 2022

14 Paragraph 5.4 of the convenience note which has been placed on the record by the Additional Solicitor General deals with the queries of the home buyers in regard to the amount which they would be required to pay in terms of the proposed payment plan. The Court is informed that it has been proposed in the Resolution Framework that:

- “(a) Homebuyers’ Units will be delivered at the same rates/price at which they booked their Unites;
- (b) No interest shall be charged from the homebuyers on delayed payments/balance receivables, up to the dates on which payment shall fall due as per the Revised Payment Plan, with no obligation to refund the interest or delayed interest already recovered;

- (c) Management will not be able to pay any delay interest/delay compensation to the home-buyers since it is the endeavour to deliver apartments at the same prices at which they were originally booked, despite manifold rise in cost of construction and multiple rise in market prices of these units.”

15 The above information is permitted to be uploaded on the website of Unitech for information of all home buyers. We clarify that any objections on behalf of the home buyers shall be considered separately when the Resolution Plan is taken up for discussion.

Civil Appeal Nos 10856/2016 and SLP(Crl) Nos 5978-5979/2017

16 List the following on 9 February 2023 at 3 pm:

- (i) IA No 174136 of 2022
- (ii) Document Nos 45753 of 2021 and 45760 of 2021 (Replies by Petitioner Nos 1 and 2);
- (iii) SLP(C) No 9572 of 2007 [*City Infrastructure India Pvt Ltd vs New Okhla Industrial Development Authority and Others*].
- (iv) Reports submitted by Mr Justice Abhay Manohar Sapre;
- (v) Action Taken Report III, IV, V & VI;
- (vi) Status Report of DG (Prisons);
- (vii) IA No 81090 of 2020 in Civil Appeal No 10856 of 2016;
- (viii) 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;
- (ix) Carnoustie – IA Nos 50704 of 2021, 50706 of 2021 filed by Unitech and IA Nos 79304 of 2020, 5463 of 2021 filed by Carnoustie and IA No 118046 of 2018 in SLP (Crl) Nos 5978-5979 of 2017;

- (x) IA No 50683 of 2021 in Civil Appeal No 10856 of 2016;
- (xi) IA Nos 77794 and 77795 and 77802 and 77813 of 2022;
- (xii) IA Nos 12103/2020, 12105/2020, 70286/2020, 70271/2020, 134992/2020, 104012/2021, 104016/2021, 104094/2021 and 104097/2021;
- (xiii) IA Nos 83361 of 2020 and 85172 of 2020;
- (xiv) IA No 100828 of 2019 in Civil Appeal No 10856 of 2016;
- (xv) IA Nos 96157 & 96264 of 2021, IA Nos 100070 & 100079 of 2021, IA Nos 153005 & 152952 of 2021, IA Nos 68334 & 68319 of 2022 and IA Nos 103121 & 103115 of 2022

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR