

ITEM NO.16

COURT NO.1

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) Nos.5978-5979/2017

(Arising out of impugned final judgment and order dated 11-08-2017 in BA No. 1573/2017 11-08-2017 in BA No. 1574/2017 passed by the High Court Of Delhi At New Delhi)

SANJAY CHANDRA & ORS.

Petitioner(s)

VERSUS

STATE GOVT. OF NCT OF DELHI & ORS.

Respondent(s)

(With appln.(s) for exemption from filing certified as well as ordinary plain copy of the impugned order, substitution, appropriate orders/directions, clarification/direction, intervention, permission to appear and argue in person, permission to file appln. for direction, permission to file SLP without certified/plain copy of the impugned order, permission to place on record subsequent facts and seeking custody certificate)

Date : 14-05-2018 These matters were called on for hearing today.

CORAM :

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

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

For Petitioner(s) Mr. Ranjit Kumar, Sr. Adv.
Mr. Pallav Shisoidhiya, Sr. Adv.
Mr. Dhruv Mehta, Sr. Adv.
Mr. Gaurav Bhatia, Adv.
Mr. Abhimanyu Bhandari, Adv.
Mr. Abhinav Agrawal, Adv.
Mr. Rajiv Kumar Virmani, Adv.
Mr. Atul Malhotra, Adv.
Mr. Vikash Shrivastava, Adv.
Ms. Kanika Jain, Adv.
Mr. E.C. Agrawala, AOR
Mr. Utkarsh Jaiswal, Adv.
Mr. Abhishek Singh, Adv.

**Mr. Sudhir Mahajan, Adv.
Ms. Simran Ved, Adv.**

For Respondent(s)

**Mrs. Pinky Anand, ASG
Mr. Rupesh Kumar, Adv.
Ms. Praveena Gautam, Adv.
Mrs. Anil Katiyar, Adv.**

Mr. B. V. Balaram Das, AOR

**Mr. C.A. Sundaram, Sr. Adv.
Mr. Nikhil Nayyar, AOR
Ms. Pritha Sri Kumar Iyer, Adv.
Mr. N. Sai Vinod, Adv.
Mr. Dhananjay Baijal, Adv.
Ms. Smriti Shah, Adv.
Mr. Divyanshu Rai, Adv.
Ms. Vasudha Sharma, Adv.**

**Mr. Shekhar Naphade, Sr. Adv.
Mr. Shashibhushan P. Adgaonkar, Adv.
Ms. Aarti Kumar, Adv.
Mr. Rana Sandeep Busa, Adv.**

**Mr. Sachin Datta, Sr. Adv.
Mr. Vijay Nair, Adv.
Mr. Manoranjan Sharma, Adv.
Mr. Jay Kishor Singh, Adv.**

**Mr. Manoj Prasad, Sr. Adv.
Mr. Ashutosh Dubey, Adv.**

**Mr. Mahabir Singh, Sr. Adv.
Mr. Vikas Deep Jain, Adv.
Ms. Nidhi Jain, Adv.
Mr. Mahesh Babu, Adv.**

**Mr. P.K. Jain, Adv.
Mr. Saurabh Jain, Adv.
Mr. P.K. Goswami, Adv.
Mr. S.P. Singh Rathore, Adv.
Mr. Ashok K. Sharma, Adv.
Mr. Uday Prakash Yadav, Adv.
Mrs. Anuradha Soni Verma, Adv.
Mr. Shryansh Aggarwal, Adv.
Mr. Rajesh Goyal, Adv.
Mr. H. Arjun, Adv.**

**Mr. Sanjay Parikh, Adv.
Mr. Pukhrambamb Ramesh Kumar, Adv.
Mr. Ritwick Parikh, Adv.**

Ms. Sanjan, Adv.

Dr. Sumant Bharadwaj, Adv.

Ms. Mridula Ray Bharadwaj, Adv.

Mr. Rakesh Kailash Sharma, Adv.

Ms. Namrata Srivastava, Adv.

Mr. Dhiraj Kumar Agrawal, Adv.

Mr. U.A. Rana, Adv.

Mr. Himanshu Mehta, Adv.

Mr. Sandeep Bajaj, Adv.

Mr. Soayib Qureshi, Adv.

Ms. Aakanksha Nehra, Adv.

Mr. Rajiv K. Virmani, Adv.

Mr. Anuroop Chakravarti, Adv.

Mr. Atul Malhotra, Adv.

Mr. Sangam Lal Pande, Adv.

Mr. Balaji Srinivasan, Adv.

Mr. Pallavi Sengupta, Adv.

Mr. Sachin Jain, Adv.

Dr. Kailash Chand, Adv.

Ms. Aishwarya Bhati, Adv.

Ms. Tara V. Ganju, Adv.

Mr. Rahul Jaryal, Adv.

Mr. Satyendra Kumar, Adv.

Mr. Gaurav Goel, Adv.

Mr. Ishan Sanghi, Adv.

Ms. Liz Mathew, Adv.

Ms. Jaya Shahi, Adv.

Mr. Vivek Narayan Sharma, Adv.

Mr. Ruchit Dugar, Adv.

Mr. Sidharth Mahajan, Adv.

Mr. Shubham Awasthi, Adv.

Mr. Akash Sharma, Adv.

Mr. Neeraj Kumar, Adv.

Mr. Anand Sanjay M. Mulik, Adv.

Mr. Dharm Singh, Adv.

Mr. Suraj Kaushik, Adv.

Mr. Nanda Kumar K.B., Adv.

Mr. Anukul Raj, Adv.
Ms. Nikita Raj, Adv.

Ms. Rashi Bansal, Adv.

Mr. Gyanendra Kumar, Adv.
Ms. Jyoti Dastidar, Adv.
Ms. Vanshika Mohta, Adv.
M/s. Cyril Amarchand Mangaldas

Mer. T.N. Singh, Adv.
Mr. Vikas K. Singh, Adv.
Rajshree Singh, Adv.

Ms. Madhvi Kumar Sawat, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Ms. Meenakshi Chowhan, Adv.

Mr. Dhruv Agrawal, Sr. Adv.
Mr. Nishit Agrawal, Adv.

Mr. C.S. Panda, Adv.

Mr. Abhijeet Shah, Adv.
Mr. Omprakash Parihar, Adv.

Ms. Kirti R. Mishra, Adv.
Ms. Apurva Upmanyu, Adv.

Ms. Priyadarshil Chetan, Adv.
Mr. Chandan Kumar Mandal, Adv.
Ms. Sujata Kurdukar, Adv.

Mr. Kaushik Chaudhary, Adv.
Deepanshu Jain, Adv.
Mr. Shantanu Jain, Adv.

Ms. Shilpa Mohan, Adv.
Mr. Jitender Chaudhary, Adv.

Mr. R. Satish, Adv.
Mr. Akshat Agarwal, Adv.
Mr. Prateek Gupta, Adv.

Mr. Ayush Sharma, Adv.
Mr. T.N. Durga Prasad, Adv.
Mr. Siddharth Jain, Adv.

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

**Mr. B. Ragunath, Adv.
Mr. A. Arockiaraj, Adv.
Mr. Sriram P., Adv.**

**Mr. Parveen Kumar Aggarwal, Adv.
Mr. Sanjay Jain, Adv.**

**Mr. Ajay Jain, Adv.
Mr. Shekhar Raj Sharma, Adv.
Ms. Astha Chopra, Adv.
Mr. Jinendra Jain, Adv.**

**Mr. Umang Shankar, Adv.
Mr. Jalaj Agarwal, Adv.
Mr. Mohit Kumar Singh, Adv.**

**Mr. Vijay Sharma, Adv.
Mr. Aditya Sinha, Adv.
Mr. Krishna Yadav, Adv.
Mr. Anil, Adv.
Mr. Narendra Singh Yadav, Adv.**

**Mr. Krishna Kumar Singh, Adv.
Mr. Narendra Prasad, Adv.**

**Mr. Nalin Kohli, Adv.
Mr. Ankit Roy, Adv.
Ms. Nimisha Menon, Adv.
Mr. Kaushtab Anshuraj, Adv.**

**Mr. Gopal Jha, Adv.
Mr. N.K. Sharma, Adv.
Mr. N. Prabhakar, Adv.**

**Mr. Kunal Soni, Adv.
Mr. Rajesh Srivastava, Adv.
Mr. Rakesh Sharma, Adv.
Mr. Vivek Kr. Singh, Adv.**

**Mr. Abhishek Kaushik, Adv.
Ms. Kunti Jha, Adv.**

Mr. Kaustubh Anshuraj, Adv.

**Mr. Rajiv Nanda, Adv.
Mr. T.A. Khan, Adv.
Mr. B.V. Balram Das, Adv.**

**P. Hingorani, Adv.
Mr. Aman Hingorani, Adv.
For Hingorani & Associate**

**Mr. Dinesh K. Garg, Adv.
Mr. Abhishek Garg, Adv.
Mr. Dhananjay Garg, Adv.
Mr. Deepak Mishra, Adv.
Mr. R.K. Sinha, Adv.**

**Mr. M.L. Lahoty, Adv.
Mr. Paban K. Sharma, Adv.
Ms. Ishita Bist, Adv.
Mr. Anchit Sripat, Adv.
Mr. Himanshu Shekhar, Adv.
Mr. Sajan Poovayya, Adv.
Mr. Priyadarshi Banerjee, Adv.
Mr. Pratibhanu Singh Kharola, Adv.
Mr. Joseph Anthony, Adv.**

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

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

In pursuance of our order dated 2nd May, 2018, an affidavit has been filed by Mr. Ajay Chandra, which really does not reflect the properties owned by him. It is submitted by Mr. Ranjit Kumar, learned senior counsel appearing for the petitioners that in the subsidiary companies, the employees are the Directors and they should not be held liable in respect of their personal property. The affidavit filed by Shri Ajay Chandra is blissfully vague and the same shall be addressed on a later date.

In the course of hearing, we have been apprised by Mr. Ranjit Kumar, learned senior counsel being assisted by

Mr. Abhinav Agrawal, learned counsel and other learned senior counsel appearing for the petitioners that at present more than 600 acres of land which are unencumbered are available for auction.

Mr. Pawanshree Agarwal, learned Amicus Curiae has already issued a public notice for inviting objections in respect of approximately 230 acres. The list of 400 acres of land which is situated in the State of Tamil Nadu, shall be provided by Mr. Abhinav Agrawal to Mr. Pawanshree Agarwal by tomorrow (15.05.2018).

Learned counsel for the parties and the learned Amicus Curiae have suggested that a Committee headed by a retired Judge of a High Court should be constituted for carrying out the auction of the unencumbered immovable properties.

In view of the aforesaid, we constitute a Committee headed by Justice S.N. Dhingra, former Judge of the High Court of Delhi. Justice S.N. Dhingra would be at liberty to nominate a Chartered Accountant and a valuer accredited with the Delhi High Court or this Court. Justice S.N. Dhingra shall formulate suitable terms and conditions for auction of the above properties on as-is-where is basis to be notified in the newspapers. The Committee shall be assisted by Mr. Pawanshree Agarwal, who is a friend of the Court in this

case and and Mr. Abhinav Agrawal, learned counsel assisting Mr. Ranjit Kumar, learned senior counsel for the petitioners. The purpose of nominating of two counsel is that the Committee can function smoothly. We request Justice S.N. Dhingra to proceed with the auction as expeditiously as possible, as the home buyers are waiting with concern to get their money refunded. The auction shall be subject to confirmation by this Court. The expenditure incurred by the Committee, including the fees, shall be met from the accrued interest, as is being suggested by Mr. Pawanshree Agarwal, learned Amicus Curiae.

At this juncture, we may also note another aspect. There are some home buyers who want to take possession of the flats. This Court vide order dated 29th January, 2018, had directed that the flats can be handed over on "as is where is basis". The home buyers are at liberty to seek the benefit of the said order.

Mr. Pawanshree Agarwal has brought to our notice that Rs.40,00,00,000/- (Rupees forty crores only) was deposited by Pioneer Urban Land & Infrastructure Limited, which has taken up certain projects in joint venture with the Unitech Ltd. It is submitted by Mr. Agarwal that the said amount can be disbursed in respect of five projects, namely, (i) The Close (South) - Gurgaon, (ii) South City II Floors - Gurgaon (iii) Escape - Gurgaon (iv) Fresco -Gurgaon and (v)

Harmony -Gurgaon. The said submission is opposed by Mr. C.A. Sundaram, learned senior counsel appearing for Pioneer Urban Land & Infrastructure Limited on the ground that it has only a 40% liability in respect of the projects.

It has been canvassed at the Bar that there are various categories of home buyers i.e. (i) the consumers who have got orders in their favour from the National Consumer Disputes Redressal Commission, (ii) the parties who have proceeded for execution after the orders of the National Commission, (iii) the parties who have approached the National Commission or the State Commission and there is no dispute over their principal amount, and (iv) home buyers who have not approached any forum as yet. It may be stated here that the learned Amicus Curiae as per the order of this Court has created a portal in respect of the aforesaid categories. We do not intend to make any distinction amongst the said categories and, accordingly, it is directed that amount be disbursed to the home buyers whose names find place in the portal created by the learned amicus curiae concerning the aforesaid five projects and there has been no cavil over the same by the Pioneer Urban Land & Infrastructure Limited. The list of the names shall be submitted by Mr. Pawanshree Agarwal to the Registry and the amount shall be disbursed on *pro rata* basis. The *pro rata* amount shall be submitted by Mr. Pawanshree Agarwal on the basis of the amount deposited

with the developer and the same shall be restricted to the principal sum and will not take into consideration either interest component or compensation amount awarded by the forum/court for the present.

List the matter on 5th July, 2018.

(Chetan Kumar)
Court Master

(Tapan Kumar Chakraborty)
Court Master