

Subrata Bhattacharya vs Securities And Exchange Board Of India on 6 October, 2021

Bench: D.Y. Chandrachud, Vikram Nath, B.V. Nagarathna

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ITEM NO.1 Court 4 (Video Conferencing) 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).13301/2015

SUBRATA BHATTACHARYA

Appellant(s)

VERSUS

SECURITIES AND EXCHANGE BOARD OF INDIA & ORS.

Respondent(s)

((1) I.A. No.63652/2021(Application for Appropriate orders and Exemption from filing affidavit) (2) I.A. No. 121435 / 2020(Application for Appropriate orders) (3) I.A. No. 128401 / 2018(Application for Application for Direction) (4) I.A. No. 186866 / 2019(Application for Appropriate orders) (5) I.A. No. 77018 / 2019 (Appropriate orders (6) I.A. No. 108959 and 108956 / 2020 (Application for Direction and Intervention) (7) I.A. No. 196966/ 2019 (Application for Direction) (8) I.A. No. 198791/ 2019 (Application for Direction) (9) I.A. No. 198793/ 2019 (Application for Direction) (10) I.A. No. 198795 / 2019 (Applicaton for Direction) (11) I.A. No. 56536 / 2021 (Application for Direction) (12) I.A. No. 87891 / 2020 (Application for direction) (13) I.A. No. 90401 and 90402/2021 (Application for Direction and Exemption from filing O.T)(14) I.A. No. 121672 and 121669 / 2020 (Application for Direction and Intervention) I.A. No. 121665 / 2020 with 91242 /2021 (Applications for appropriate directions and Exemption from filing affidavit))(15) I.A. No. 15874 / 2018 (Application for Direction) (16) I.A. No. 111263 /2020 (Application for Direction) (17) I.A. No. 140630 /2019 (Application for Direction) (18) I.A. No. 59495 / 2021 (Application for Permission to file additional document)(19) I.A. No. 105681 and 105676/2019 (Application for Direction and impleadment) (20) I.A. No. 107605/2019 (Application for Direction)(21) I.A. No. 151743/2019 (Application for Direction)(22) I.A. No. 151745/2019 (Application for Direction) (23) I.A. No. 147819/2019 (Application for Exemption from filing O.T)(24) I.A. No. 19984/2019 (Application for Direction)(25) I.A. No. 66425/2019 (Application for Intervention)(26) I.A. No. 27507, 27531 and 27538/2021 (Application for Appropriate orders, Application for Impleadment and Application for Stay)(27) I.A. No. 3929 and 3931/2021(Application for Direction and Application for Exemption from OT(28) I.A. No. 48796 and 48787 /2021(Application for

Direction and impleadment) (29) I.A. No.43459 and
43457/2021(Application for Impleadment and Direction)(30) I.A.
No.42490/2020 (Application for Direction)(31) I.A. No. 50068 and
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50070/2018 (Application
Digitally signed by
Sanjay Kumar
Date: 2021.10.07

for Direction and Stay)(32) I.A.
No.72158/2021(Application
16:57:25 IST

Reason: for Direction) (33) I.A.
No.72161/2021(Application for Direction) (34) I.A. No.36898/2021
(Application for Direction) (35) I.A. No.133442/2020(Application
for Direction) (36) I.A. No.130695 and 130696/2020(Application for
Direction and Exemption)(37) I.A. No.124496/2020(Application for

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Direction)(38) I.A. No.151756 and 151745/2019(Application for
Direction)(39) I.A. No.87577/2021(Application for Direction) (40)
I.A. No. 84559 and 84557 /2021 (Application for Direction and
intervention)(41) I.A.No.35800, 35796 and 85496 of 2021(Application
for Direction, Impleadment and seeking permission to file
additional document)(42) I.A. No.66973/2018(Application for
Direction) (43) I.A. No.47351 and 47346/2020(Applications for
Direction)(44) I.A. No. 82617, 27817, 82611 and 82613 of 2021
(Application for direction, intervention, permission to file addl.
Docs and exemption from filing O.T.)(45) I.A. No. 44407 and 44406 /
2019 (Applicaion for direction and impleadment) (46) I.A.
No.46708/2021 (Application for Direction)(47) I.A. No.
110705/2020(Application for Direction) (48) I.A. No.37586/2021
(Application for Direction)(49) I.A. No.38345/2019(Application for
Modification)(50) I.A. No.7718/2021(Application appropriate
directions)(51) I.A. No.7715/2020(Application appropriate
directions)(52) I.A. No.96289 and 96285/2021 (Application for
Direction and Intervention)(53) I.A. No. 63802 and 63794/2021
(Application for direction and Impleadment)(54) I.A. No.75741,
75743 and 75745/2020 (Application for direction , Exemption from
filing O.T and Exemption from filing affidavit)(55) I.A.
No.83071/2018(Application for Direction) (56) I.A. No.
80826/2018(Application for Direction) (57) I.A. No.
193160/2019(Application for Direction) (58) I.A. No. 29012 and
29010 /2020(Application for Direction and Intervention) (59) I.A.
No.55568/2021Application for Intervention Application(60) I.A.
No.55574/2021(Application for Direction) (61) I.A. No. 92051 and
92046/2020(Application for Modification of order dated 23.01.2020)
(62) I.A. No.12341, 12337 and 75407 /2020 (Application for
Direction, Intervention and pemrission to file affidavit)(63) I.A.
No. 86663 of 2018 (Applicaiton for directions)(64) I.A. No. 86666
of 2018 (Application for directions)(65) I.A. No.
81385/2020(Application for Direction)(66) I.A. No.144452 and

144439/2019 (Application for Direction) (67) I.A. No.107705 /2021
and 75750/2020(Application for Direction and Intervention)(68) I.A.
No. 50277, 50275 and 50278/2020 (Application for Direction,
Intervention and Exemption from filing affidavit)(69) I.A.
No.43810/2020(Application for Direction) (70) I.A. No.24654/2020
(Application for Direction) (71) I.A. No. 2595/2020 (Application
for Direction) (72) I.A. No.179807/2019(Application for Direction)
(73) I.A. No.151770/2019 (Application for Direction) (74)I.A.
No.107494/2019(Application for Direction) (75) I.A. No.75467 /
2019(Application for Direction)(76) I.A.
No.185594/2018(Application for Direction) (77) I.A. No.183793,
183794 and 183800/2018 (Application for Direction) (78) I.A.
No.119302/2018(Application for Direction) (79) I.A. No.94381/2018
(Application for Direction) (80) I.A. No. 20915/2018 (Application
for Direction) (81) I.A. No.138756/2017(Application for Direction)
(82) I.A. No.136095/2017(Application for Direction) (83) I.A.
No.132726/2017(Application for Direction) (84) I.A. No.78094 /
2017(Application for Direction) (85) I.A. No.73741/2021(Application
for intervention)[NOT TAKEN UP ON 29.09.2021])

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WITH

T.C.(CrI.) No. 1/2016 (XVI-A)
(IA No. 99259/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.
99262/2021 - EXEMPTION FROM FILING AFFIDAVIT)

W.P.(C) No. 640/2016 (X)

(WITH IA No. 108618/2021 – CLARIFICATION/DIRECTION, IA No.
110474/2019 – CLARIFICATION/DIRECTION, IA No. 102672/2017 –
CLARIFICATION/DIRECTION, IA No. 107462/2017 - PERMISSION TO FILE
APPLICATION FOR DIRECTION)

T.C.(CrI.) No. 3/2016 (XVI-A)

(WITH IA No. 89043/2020 – CLARIFICATION/DIRECTION, IA No.
89044/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 48041/2019 -
GRANT OF BAIL, IA No. 100387/2020 - INTERIM BAIL, IA No. 51584/2019
– MODIFICATION)

C.A. No. 13394/2015 (XVII)

(WITH IA No. 2637/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No.
2633/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 24485/2018 -
APPROPRIATE ORDERS/DIRECTIONS, IA No. 2632/2019 - INTERVENTION
APPLICATION, IA No. 24482/2018 - INTERVENTION APPLICATION, IA No.
24487/2018 - STAY APPLICATION)

Date : 06-10-2021 These matters were called on for hearing today.

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

IA No 63652 of 2021 in Civil Appeal No 13301 of 2015 1 The directions which have been sought by SEBI in the IA are in the following terms:

“(a) ...an order vacating the common order dated 26.03.2021 passed by the SAT in Appeal Nos 161 and 162 of 2021;

(b) ...an order staying all further proceedings in Appeal No.161/2021 and Appeal No.162/2021 filed by the Respondents herein before the Securities Appellate Tribunal, Mumbai;”

2 The above directions have been sought by SEBI in view of an order dated 26 March 2021 of the Securities Appellate Tribunal¹. By its order, SAT, entertained Miscellaneous Applications 324-325 of 2021 and 326-327 of 2021 in appeals 1“SAT” filed by Unicorn Infra Projects and Estates Private Limited 2 and DDPL Global Infrastructure Private Limited³ and directed that the attachment order issued by SEBI on 1 March 2021 shall remain in abeyance. Both the appellants before SAT – Unicorn and DDPL – were permitted to operate their accounts and to incur expenditure for the “smooth running of the business”. An undertaking was furnished before SAT to the effect that the moneys which are lying in specified bank accounts would, upon de-freezing/lifting of the attachment imposed by SEBI, be used for meeting the company’s expenses and payments in the ordinary course of business, until the appeals are disposed of by SAT. 3 The genesis of these proceedings traces back to an order dated 2 February 2016 of this Court, by which a Committee chaired by Justice R M Lodha, former Chief Justice of India was constituted for disposing of the land parcels of PACL in order that the sale proceedings could be utilized for the payment of investors. Without dwelling in detail on the factual background, it would suffice to note that SEBI, by an order dated 22 August 2014, concluded that PACL had mobilized an amount of Rs 49,100 crores from investors under a collective investment scheme without registration and in violation of the SEBI (Collective Investment Schemes) Regulations 1999. The order passed by SEBI on 22 August 2014 was affirmed by SAT on 12 August 2015 following which multiple appeals were filed before this Court, resulting in the order dated 2 February 2016. 4 The order dated 2 February 2016 makes it abundant clear that SEBI was entrusted with certain functions in pursuance of the directions issued by this Court under Article 142 of the Constitution. This was in order to protect the interests of the investors impacted by collective acts of defrauding them by PACL and its Directors, promoters, group companies and related persons and entities. . The functions which SEBI has been called upon to perform emanate 2“Unicorn” 3“DDPL” from the directions of this Court. Independently, SEBI, as a statutory body under the Securities and Exchange Board of India Act 1992 4, is invested with statutory duties, obligations and functions, but, it needs to be emphasized that the functions which are being discharged by SEBI are in the context of an entrustment by this Court in the interests of the body of investors. This is also evident from the fact that besides the Chairperson of the Committee, the other members of the Committee include: (i) the Whole Time Member, SEBI; (ii) the Executive Director, SEBI; and (iii) the General Manager, SEBI, who is to act as a Nodal Officer cum Secretary of the Committee. As a matter of fact, the injunction issued by this Court on 2 May 2016, restraining any other civil authority or forum from entertaining any suit,

proceeding or claim pertaining to PACL or its directors, promoters, group entities, group companies, individuals, etc., is in order to ensure that proceedings are not instituted before any other forum to overreach or defeat the assumption of jurisdiction by this Court. The relief which was granted by this Court was in terms of the following prayer:

“(a) pass an order directing that no Civil Court or other Authority or Forum shall entertain any suit or other proceeding in respect of any claim or related matter(s) pertaining to PACL Ltd. And/or its Directors/Promoters/Group Companies/ entities/ individuals etc., arraying therein as parties/Defendants/Respondents the Justice (Retd.) R.M. Lodha Committee (in the matter of PACL Ltd.), and/or its Chairman and/or its Members and/or the Securities and Exchange Board of India and further no injunction shall be granted by any Court or other Authority or Forum in respect of any action taken or to be taken by the Justice (Retd.) R.M. Lodha Committee (in the matter of PACL Ltd.) and/or its Chairman and/or its Members and/or the Securities and Exchange Board of India, with respect to claims and/or matter(s) relating to investments/deposits etc. in/with PACL Ltd. or its Directors/Promoters/Group Companies/Entities/Individuals etc.,”

5 SEBI has, in its IA, set out the fact that the Enforcement Directorate intimated the Justice Lodha Committee that twenty five associates of PACL had transferred 4“SEBI Act” funds into Systematix Venture Capital Trust 5, as noted in the first Status Report of the Committee. The Committee found, upon examination, that an amount of Rs 19.04 crores had been repaid directly by Systematix to twenty five front/associate entities and recommended the initiation of recovery proceedings. SEBI issued an attachment notice dated 30 April 2019 with respect to twenty five entities. A further investigation was conducted and placed before the Committee by SEBI to examine broadly all fund transfers of Systematix. The result of the examination is elaborated in paragraph 17 of the IA filed by SEBI, which, inter alia, records that:

“17. The examination also revealed Systematix has just launched one scheme i.e. Scheme I since its inception. Also, out of total 26 investors in Scheme I of Systematix, 25 were admitted associate entities of PACL as per information provided by PACL itself. They invested Rs. 110.95 crores in the scheme. This money came from PACL as per the bank account statements of these entities. The money was routed to these 25 associates companies through a set of another 5 admitted associate companies of PACL.”

6 Moreover, it has been stated that Gurmeet Singh, a Director of PACL was a director of DDPL since 1 June 2011, much before investments were made by Systematix in DDPL. Gurmeet Singh is alleged to have resigned on 11 September 2012 after the investments were made in DDPL by Systematix. Unicorn and DDPL, respondents to the IA, had common directors at the time when the investments were made and held substantial shareholdings in the two companies. An analysis of the shareholding pattern of DDPL and Unicorn has been set out in the IA in the following manner:

“ANALYSIS OF THE SHAREHOLDING PATTERN OF DDPL AND UNICORN:-

DDPL:

5“Systematix”

19. Another important point is that prior to investment made by Systematix, PACL held 40 percent shareholding of DDPL, Mr. Prateek Kumar held 11 percent, Mr. Dharmendra P Shah and Hemant Patil held 16.34 percent each.

20. After the investment, Systematix held 50% shareholding and Mr. Gurmeet Singh held 1 %. NSB Infrastructure and Projects held 16.34% and Mr. Dharmendra P Shah and Hemant Patil held 16.34 percent each.

UNICORN:-

21. Prior to Systematix's investment, NSB Infrastructure and Projects held 50 percent shareholding of Unicorn, Mr. Prateek Kumar held 16.67 percent, Mr. Dharmendra P Shah and Hemant A. Patil held 16.66 percent and 16.67 percent respectively.

22. It may be noted that NSB Infrastructure and Projects later renamed as Synergyone Infrastructure and Projects was majorly held by Mr. Prateek Kumar. After investment was made by Systematix, Mr. Prateek Kumar transferred 80% of shareholding of NSB to PACL. NSB Infrastructure and Projects was also related to one of the associate companies of PACL called NSB Realtors Pvt. Ltd and had common directors with same.

23. After investment by Systematix, Systematix held 50 percent shareholding of Unicorn, Gurmeet Singh held 6.67 percent, Mr. Prateek Kumar held 10 percent and Mr. Dharmendra P Shah and Hemant Patil held 16.66 percent and 16.67 percent respectively.

24. Investigation Report noted that Gurmeet Singh became shareholder in DDPL and Unicorn after investment by Systematix. Both companies had common Directors who almost completely held the shareholding of both companies.

25. It may be noted that NSB which had shareholding in DDPL after Systematix investment and in Unicorn prior to Systematix investment was company of Mr. Prateek Kumar who sold/transferred 80% stake in NSB to PACL later on.

26. As per PACL Ltd.'s letter dated 30th September, 2016, PACL had transferred around Rs. 1500 Crores to Mr. Prateek Kumar and Prateek Kumar had entered a Definitive Agreement for Settlement with PACL on 2 nd October, 2013. As per statement of one of the Directors of PACL, Mr. Prateek Kumar used to procure land for PACL.

27. The Investigation Report gave a finding that Mr. Prateek Kumar was front of PACL. PACL held 51 % stake in DDPL and 67% in Unicorn, directly and also indirectly through Mr. Prateek Kumar and NSB, at the time of investment by Systematix.

28. In 2015, Systematix subscribed to rights issue of DDPL and Unicorn bringing up its shareholding to 58.02 percent in DDPL and 59.92 percent in Unicorn.”

7 After considering the above material, the Justice Lodha Committee has taken note of the following facts:

“a. PACL had transferred Rs. 110.95 crores to 5 companies (as noted in para 5 of the Impugned Notice of Demand).

b. The said 5 companies had further transferred the entire amount of Rs. 110.95 crores to 25 entities, who were associates of PACL.

c. These 25 entities had invested the entire amount of Rs.110.95 crores in Scheme I of Systematix. The total corpus of the Scheme-I was Rs.113 45 crore.

d. Systematix invested Rs. 111.03 Crore in equity shares and OFCD of DDPL and Unicorn, who were also associates of PACL.

e. That investment made by the Systematix in DDP Land Unicorn by Scheme-I of Systematix was used to acquire stake of PACL and its front in DDPL and Unicorn, i.e. the money of investors which the PACL and its associated companies have invested in the Systematix was used to purchase the securities of DDPL and Unicorn held by PACL and its associated and front entities. Thus, the money was routed back to PACL and its associated entities. Therefore, it was concluded that Scheme-I of Systematix was merely a conduit to transfer funds of PACL back to PACL.

f. A total amount of Rs 110.95 crore transferred by PACL belongs to the investors and the same should be recovered for return to the investors. Of the total amount of Rs 110.95 crore, the Justice Lodha Committee has so far recovered Rs.42.24 Crore from Systematix and for the amount of Rs.19.04 Crore(which was repaid by Systematix to 25 Associate Companies of PACL), recovery proceedings (Attachment Notice No. 2644/2019 in Certificate No.,. 832 of 2015) have been instituted by SEBI to recover the said amount Rs.19.04 Crores.”

8 The above extract indicates that the Committee has found that PACL had transferred Rs 110.95 crores to five companies, which in turn had transferred the funds to twenty five entities, who were associates of PACL. This amount was invested in Scheme I of Systematix, which in turn had invested it in the equity shares and OFCDs of DDPL and Unicorn, alleged to be associates of PACL. Of the above amount of Rs 110.95 crores, the Committee has, thus far, recovered Rs 42.24 crores from

Systematix and recovery proceedings have been initiated for recovering an amount of Rs 19.04 crores, which was repaid by Systematix to twenty five associate companies of PACL. SEBI initiated action for the recovery of the remaining amount of Rs 49.67 crores in order to implement the directions issued by this Court under Article 142 of the Constitution on 25 July 2016 and 4 August 2017.⁹ Accordingly, a notice of demand and attachment order was issued by SEBI on 1 March 2021. The attachment notice was challenged before SAT. SAT, while entertaining the appeals, stayed the attachment orders and permitted both DDPL and Unicorn to operate their accounts in the ordinary course of business.¹⁰ Mr Pratap Venugopal, learned counsel appearing on behalf of SEBI, has navigated the Court through the contents of the IA and the underlying annexures while explaining the object and purpose of the orders passed by this Court from time to time. It has been urged that SEBI's action is in the implementation of the directions of this Court under Article 142 of the Constitution and that, in consequence, the assumption of jurisdiction by SAT as well as the order dated 26 March 2021 would virtually negate the directions which have been issued by this Court.

11 On the other hand, Dr Abhishek Manu Singhvi, learned Senior Counsel appearing on behalf of DDPL and Unicorn, objected to the IA instituted by SEBI on the following grounds:

- (i) SEBI, instead of instituting an appeal under Section 15Z of the SEBI Act, has chosen to move an IA in the pending proceedings;
- (ii) An objection was raised before SEBI, when it issued its direction on 26 March 2021;
- (iii) SEBI has not followed the provisions of Section 28A of the SEBI Act and Section 222 of the Income Tax Act 1961 inasmuch as (i) Section 28A applies where there has been violation of a disgorgement order; and (ii) Section 222 would apply where there has been a failure to comply with a certificate of recovery;
- (iv) Neither DDPL nor Unicorn are part of PACL. Though SEBI had issued attachment notices on 11 December 2015, 7 September 2016 and 30 April 2019, at no stage, was any notice issued to DDPL or Unicorn and even the Justice Lodha Committee has proceeded to take action recovery against other entities, but not against the above two companies ; and
- (v) Systematix purchased shares of DDPL/Unicorn from PACL in the secondary market in 2012 for which consideration was received by PACL. There has been no association of DDPL and Unicorn with PACL after the sale of 2012 by PACL to Systematix of the shares of two companies.

Mr Vikram Nankani, learned senior counsel supplemented the submissions by urging that DDPL and Unicorn are implementing a construction project at Bhayander and any direction of the nature that has been sought by SEBI will cripple them from providing flats to purchasers.¹² At the present stage, it needs to be emphasized that the attachment notice which has been issued by SEBI on 1 March 2021 was in order to implement the directions which have been issued by this Court under

Article 142 of the Constitution. SEBI in that sense, as an expert statutory body, is exercising powers in pursuance of the mandate of this Court in order to protect the interests of the investors. This Court has created a mechanism by virtue of which, third parties who have objections, including to orders of restraint or attachment are facilitated in having their objections heard through the auspices of an officer appointed by this Court. Shri R S Virk, former District Judge, has been entrusted with the task. Moreover, the report submitted by Shri R S Virk after hearing the parties is placed before this court to provide a remedy of redress. In the present case, it is not possible to accept the submission that SEBI has attempted to short circuit the process of filing a statutory appeal by taking recourse to an IA in this Court. SEBI has been entrusted with a specific mandate under the directions of this Court. It was duty bound to and has brought the order of this Court to the notice of SAT. The stay on the order of the attachment would effectively obstruct the implementation of the directions of this Court. The entertaining of the appeals by SAT and its interim order are contrary to the directions issued by this Court dated 2 May 2016 in terms of prayer (a) of IA 5 of 2016. As a matter of fact, it was inappropriate for SAT to entertain the appeals. Deference to the order of this Court required that the parties should be permitted to move this Court for appropriate directions. In the above view, we are not, at this stage, expressing any opinion on the merits of the defense which has been raised by DDPL and Unicorn to the order of attachment since that would preclude a hearing before, and a report by Shri R S Virk.

13 We accordingly allow the IA on the following terms:

- (i) The order dated 26 March 2021 passed by SAT in Appeal Nos 161 and 162 of 2021 shall stand vacated;
- (ii) Further proceedings before SAT in Appeals Nos 161 and 162 of 2021 shall remain stayed;
- (iii) DDPL and Unicorn shall be at liberty to submit their objections to the order of attachment dated 1 March 2021 issued by SEBI before Shri R S Virk, former District Judge, who has been appointed pursuant to the orders of this Court;
- (iv) Shri R S Virk shall, upon examination of the objections urged by DDPL and Unicorn, submit his report to this Court, which shall be duly considered after hearing the concerned parties. Shri R S Virk is granted permission to obtain the view of the Enforcement Directorate in the course of the hearing of the objections of DDPL and Unicorn; and
- (v) Pending further orders of this Court, the order of attachment which has been levied by SEBI on 1 March 2021 shall continue to remain in operation to the extent of an amount of Rs 49.67 crores. Alternatively, we grant liberty to DDPL and Unicorn to deposit an amount of Rs 49.67 crores in an Escrow account to the satisfaction of SEBI. Upon the Escrow account being created in respect of the above amount of Rs 49.67 crores to the satisfaction of SEBI, SEBI would be at liberty to duly modify the order of attachment dated 1 March 2021, which shall then operate only with respect

to the amount which is held in Escrow. SEBI would be at liberty to issue necessary directions to invest the moneys held in Escrow in an interest bearing fixed deposit.

IA No 121435 of 2020 in Civil Appeal No 13301 of 2015 1 Issue notice, returnable in three weeks.

2 Pending further orders, the first and second respondents shall not release the compensation to Respondent Nos 3 to 29.

Civil Appeal No 13301 of 2015 1 Mr Pratap Venugopal, learned counsel appearing on behalf of SEBI and Mr Nimish Chib, learned counsel appearing on behalf of PACL, state that the tenure of Shri R S Virk, former District Judge is to expire on 31 October 2021. 2 The tenure is extended until 31 March 2022.

1 Mr Pratap Venugopal, learned counsel appearing on behalf of SEBI has submitted that despite the order of the Single Judge of the Delhi High Court dated 22 August 2018 (Annexure A/12), the amount of Rs 85 crores from out of the surplus funds, has not been disbursed despite the expiry of a period of six weeks.

2 Issue notice, returnable in three weeks.

1 This interlocutory application relates to immovable property situated at C-55, Sector 57, Noida, UP. SEBI has sought a direction to the Official Liquidator of the Delhi High Court to hand over possession of the property to its authorized representative.

2 Mr Ashok Mathur, learned counsel appears on behalf of the Official Liquidator of the Delhi High Court. Learned counsel states that the property in question was a rented property which was in the occupation of the company in liquidation. The Delhi High Court, this Court is informed, has directed the Official Liquidator to hand over the property to the rightful owner. Learned counsel submits that the Official Liquidator will hand over possession to the Justice R M Lodha Committee provided requisite title documents are produced.

3 At this stage, Mr Pratap Venugopal, learned counsel appearing on behalf of SEBI states that SEBI is in possession of copies of such documents as were handed over to it by the Central Bureaus of Investigation in pursuance of the order of this Court dated 2 February 2016. Hence, it has been submitted that the Official Liquidator may be directed to hand over possession to the authorized representative of SEBI. The Committee, it has been stated, would duly publish a notice so that if any person has a claim in respect of the property, an opportunity would be given to have it adjudicated before Shri R S Virk, former Additional District Judge who has been appointed by this Court for the purpose.

4 It appears from the record that there was a claim in respect of an unsecured loan due to Pearls Broadcasting Corporation Limited (PBCL). Mr Pratap Venugopal, learned counsel for SEBI states that a claim in the requisite form shall be lodged with the Official Liquidator so that it may be processed in accordance with law within a period of four weeks. 5 In the above circumstances, we

make the interlocutory application absolute by directing the Official Liquidator of Delhi High Court to hand over possession of the immovable property situated at C-55, Sector 57, Noida, UP to the Nodal Officer-cum-Secretary of SEBI, who is an authorized representative of SEBI. SEBI shall cause a notice to be published on its website so that any person who seeks to assert a claim in respect of the property can come forth to have it duly adjudicated by Shri R S Virk. 6 The interlocutory application is accordingly disposed of. IA Nos 196966/2019, 198791/2019, 198793/2019, 198795/2019, 56536/2021, 87891/2020, 90401/2021 and 121672/2020 1 In this batch of eight interlocutory applications, the applicants have placed their claims for evaluation before Shri R S Virk, the Judicial Officer nominated by this Court for examining such claims. The claims have been found to be valid. Hence, the applicants have sought the release of the properties. The details of the interlocutory applications are tabulated below:

Sl. IA No. Application for Prayer(s) in IA No. 1 196966/2019 Directions Allow the present application with an appropriate order to confirm the Orders dated 06.07.2018 and 31.07.2018 passed by Shr. R.S. Virk Judge (Retd.) in File No.473 having MR Nos.18709/16, 18711/16, 12088/16, 12086/16, 12089/16 so that land in question could be removed from the list of properties attached by the Committee 2 198791/2019 Order/directions Allow the present application with an appropriate order confirming the Order dated 06.07.2018 passed by Shr. R.S. Virk Judge (Retd.) in File No.470 having MR Nos.4329/14 and 4295/14 so that land in question could be removed from the list of properties attached by the Committee 3 198793/2019 Order/directions Allow the present application with an appropriate order confirming the Order dated 06.07.2018 passed by Shr. R.S. Virk Judge (Retd.) in File No.471 having MR Nos.12085/16, 12081/16 and 18704/16 so that land in question could be removed from the list of properties attached by the Committee 4 198795/2019 Directions Allow the present application with an appropriate order confirming the Orders dated 06.07.2018 and 31.07.2018 passed by Shr. R.S. Virk Judge (Retd.) in File No.472 having MR Nos.18710/16, 12079/16, 12077/16 so that land in question could be removed from the list of properties attached by the Committee 5 56536/2021 Appropriate orders/ (a) Accept the recommendation of District directions Judge (Retd.) Mr. R.S.Virk, made in orders in file No.730 and 730A dated 11.03.2020 and 28.08.2020.

(b) Direct the Hon'ble Justice (Retd.) Mr. R.M. Lodha Committee or concerned department to delete the detail of property from the auction website www.sebipaclproperties.com of plot 6 No. 139, Plot admeasuring 810 Sq. Mtrs. in Block-A of Sushant Lok Phase 3, a Township of M/s. Ansal Properties & industries ltd. and situated at sector 57, Gurgaon –122003 from the list of property, maintained for property of PACL and further declare that the property No.139 Plot admeasuring 810 Sq. Mtrs. In Block-A of Sushant Lok Phase 3, a Township of M/s. Ansal Properties & industries ltd. situated at sector 57, Gurgaon – 122003 is not of the property of PACL; and/ or 6 87891/2020 Directions (a) To allow the present Application by affirming order dated 20.04.2018 passed by R.S. Virk and exclude the properties as mentioned in File No. 333,334 and 382 in relation to MR Nos. 4139-14 to 4156-14, 4218-14 to 4300- 14, 4301-14 to 4400-14, 4401-14 to 4460-14, 4461-14 to 4480-14, 5462-16, 5463-16, 5465-16, 12074-16 to 12114- 16, 12116-165 to 12119-16, 12121-16 to 12133-16, 17857-16, 18691- 16 to 18701-16, 18703-16 to 18704-16, 18707-16 to 18711-16, 25007-16 to 25009-16, 25996-16, 28150-16 to 7 28151-16 28176-16 to 28179-16, 28263- 16, 28353-16, 29287-16 and 32896-16 of various Khasra Numbers form the list of the properties to be auctioned by the

Hon'ble Committee;

(b) Direct the Respondent to issue no objection certificate with regard to the properties of the Applicants so that the said properties can be excluded from the Auction list.

7 90401/2021 Appropriate orders/ a) Pass a direction approving the order directions dated 07.07.2021 passed by Mr. R.S. Virk , District Judge (Retd.) in favour of the Applicant;

b) Direct the appropriate authorities to release the Applicants property from the list of properties attached in the matter of PACL Ltd.

8 121672/2020 Appropriate Allow the present application for direction directions to the Respondent to issue "No Objection Certificate" in regard to the property of the Applicants so that the said property can be excluded from the list of properties to be auctioned to repay the investors of PACL Pvt. Ltd.

2 Mr Pratap Venugopal, learned counsel for SEBI states that there is no objection of either SEBI or the Justice R M Lodha Committee to the interlocutory applications being allowed in terms of the evaluation which has been made by Shri R S Virk.

3 The interlocutory applications are accordingly allowed in the above terms. 4 List the matter on 26 October at 2.00 pm. IA No 99259 of 2021 in T.C. (CrI) No 1 of 2016 1 List the Interlocutory Application tomorrow (7 October 2021).

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER