

ITEM NO.5

COURT NO.2

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. 20971/2017

ANANT KAJARE

Appellant(s)

VERSUS

EKNATH AHER & ORS.

Respondent(s)

(IA No. 447/2019 - APPLICATION FOR PERMISSION, IA No. 100501/2021 - APPLICATION FOR PERMISSION, IA No. 8425/2019 - APPROPRIATE ORDERS/ DIRECTIONS, IA No. 111416/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 1996/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 107221/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 150469/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 235418/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 51347/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 85655/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 50924/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 123138/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 31081/2021 - APPROPRIATE ORDERS/ DIRECTIONS, IA No. 100503/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 81442/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 59581/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 35672/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 163167/2019 - APPROPRIATE ORDERS/ DIRECTIONS, IA No. 99636/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 87728/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 65005/2020 - CLARIFICATION/DIRECTION, IA No. 106937/2022 - CLARIFICATION/DIRECTION, IA No. 102226/2022 - CLARIFICATION/DIRECTION, IA No. 137389/2018 - CLARIFICATION/DIRECTION, IA No. 77225/2019 - CLARIFICATION/DIRECTION, IA No. 25468/2020 - CLARIFICATION/DIRECTION, IA No. 155577/2023 - CLARIFICATION/DIRECTION, IA No. 90757/2018 - CLARIFICATION/DIRECTION, IA No. 186738/2019 - CLARIFICATION/DIRECTION, IA No. 129933/2018 - CLARIFICATION/DIRECTION, IA No. 25276/2019 - CLARIFICATION/DIRECTION, IA No. 63403/2022 - CLARIFICATION/DIRECTION, IA No. 119031/2019 - CLARIFICATION/DIRECTION, IA No. 133669/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 60556/2021 - EXEMPTION FROM FILING O.T., IA No. 137387/2018 - EXEMPTION FROM FILING O.T., IA No. 82440/2018 - EXEMPTION FROM FILING O.T., IA No. 63009/2022 - INTERVENTION APPLICATION, IA No. 60555/2021 - INTERVENTION APPLICATION, IA No. 150462/2021 - INTERVENTION

APPLICATION, IA No. 85654/2022 - INTERVENTION APPLICATION, IA No. 40205/2019 - INTERVENTION APPLICATION, IA No. 26916/2021 - INTERVENTION APPLICATION, IA No. 78315/2022 - INTERVENTION APPLICATION, IA No. 25273/2019 - INTERVENTION APPLICATION, IA No. 129326/2018 - INTERVENTION/IMPLEADMENT, IA No. 107705/2018 - INTERVENTION/IMPLEADMENT, IA No. 107702/2018 - INTERVENTION/IMPLEADMENT, IA No. 119126/2018 - INTERVENTION/IMPLEADMENT, IA No. 137386/2018 - INTERVENTION/IMPLEADMENT, IA No. 25465/2020 - INTERVENTION/IMPLEADMENT, IA No. 118401/2018 - INTERVENTION/IMPLEADMENT, IA No. 131254/2018 - INTERVENTION/IMPLEADMENT, IA No. 87012/2018 - INTERVENTION/IMPLEADMENT, IA No. 113400/2018 - INTERVENTION/IMPLEADMENT, IA No. 35670/2023 - INTERVENTION/IMPLEADMENT, IA No. 109447/2018 - INTERVENTION/IMPLEADMENT, IA No. 121073/2018 - MODIFICATION, IA No. 26971/2020 - MODIFICATION, IA No. 121069/2018 - MODIFICATION, IA No. 104115/2018 - MODIFICATION, IA No. 120217/2018 - MODIFICATION, IA No. 104112/2018 - MODIFICATION, IA No. 45872/2019 - MODIFICATION, IA No. 107708/2018 - MODIFICATION OF COURT ORDER, IA No. 86685/2019 - MODIFICATION OF COURT ORDER, IA No. 25645/2020 - MODIFICATION OF COURT ORDER, IA No. 105240/2020 - MODIFICATION OF COURT ORDER, IA No. 90264/2021 - MODIFICATION OF COURT ORDER, IA No. 129328/2018 - MODIFICATION OF COURT ORDER, IA No. 63011/2022 - PERMISSION TO APPEAR AND ARGUE IN PERSON, IA No. 126242/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 185309/2023 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

WITH

SLP(C) No. 3374/2018 (XVII)

(IA FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 134608/2017, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 134609/2017 and FOR INTERVENTION/IMPLEADMENT ON IA 61846/2018 and FOR CLARIFICATION/DIRECTION ON IA 130265/2018)

C.A. No. 20991/2017 (XVII)

(IA FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 134096/2017, FOR INTERVENTION APPLICATION ON IA 55252/2018, FOR INTERVENTION APPLICATION ON IA 60423/2021, FOR EXEMPTION FROM FILING O.T. ON IA 60424/2021, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 87702/2021, FOR INTERVENTION APPLICATION ON IA 151042/2021, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 151044/2021, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 63858/2022, IA No. 63858/2022 - APPROPRIATE ORDERS/DIRECTIONS,

**SLP(C) No. 3384/2018 (XVII)**

**(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 135035/2017, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 135038/2017, FOR CLARIFICATION/DIRECTION ON IA 92452/2019, FOR CLARIFICATION/ DIRECTION ON IA 112567/2019 and FOR MODIFICATION ON IA 23236/2020)**

**SLP(C) No. 3386/2018 (XVII)**

**(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 138593/2017, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 138596/2017, FOR CLARIFICATION/DIRECTION ON IA 40949/2018, FOR INTERVENTION/IMPLEADMENT ON IA 57064/2018, FOR INTERVENTION/IMPLEADMENT ON IA 57071/2018, FOR INTERVENTION/ IMPLEADMENT ON IA 57073/2018, FOR CLARIFICATION/DIRECTION ON IA 75146/2018, IA FOR TAKING SUBSEQUENT DEVELOPMENTS ON RECORD WITH AFF. ON IA 85642/2018, FOR EXEMPTION FROM FILING O.T. ON IA 85643/2018, FOR INTERVENTION/IMPLEADMENT ON IA 86815/2018, FOR INTERVENTION/IMPLEADMENT ON IA 88185/2018, FOR INTERVENTION/IMPLEADMENT ON IA 20077/2019, FOR MODIFICATION ON IA 20912/2019, FOR CLARIFICATION/DIRECTION ON IA 74655/2019 FOR MODIFICATION ON IA 98073/2020, FOR CLARIFICATION/DIRECTION ON IA 153485/2022)**

**SLP(C) No. 3385/2018 (XVII)**

**(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 138468/2017, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 138470/2017, FOR CLARIFICATION/DIRECTION ON IA 40946/2018, FOR INTERVENTION/IMPLEADMENT ON IA 57076/2018, FOR INTERVENTION/IMPLEADMENT ON IA 57078/2018, FOR CLARIFICATION/DIRECTION ON IA 105835/2018, FOR INTERVENTION/IMPLEADMENT ON IA 108721/2018 FOR INTERVENTION/IMPLEADMENT ON IA 140448/2018, FOR CLARIFICATION/DIRECTION ON IA 140462/2018, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 177565/2018, FOR INTERVENTION/IMPLEADMENT ON IA 20070/2019, FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 21278/2019, FOR MODIFICATION ON IA 72623/2019, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 75132/2019, FOR INTERVENTION APPLICATION ON IA 107886/2019, FOR MODIFICATION OF COURT ORDER ON IA 140397/2019, FOR INTERVENTION APPLICATION ON IA 161115/2019, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 44706/2021, FOR APPLICATION FOR PERMISSION ON IA 71477/2021, FOR CLARIFICATION/DIRECTION ON IA 84361/2023, FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 135505/2023 and FOR APPLICATION FOR SUBSTITUTION ON IA 95939/2024)**

**Date : 08-08-2024 These matters were called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MR. JUSTICE SANJAY KUMAR  
HON'BLE MR. JUSTICE R. MAHADEVAN**

**For Appellant(s)**

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**For Respondent(s)**

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Mr. Nirnimesh Dube, AOR

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Ms. Charu Mathur, AOR

Mr. Aman Raj Gandhi, AOR

Mr. Nitin S. Tambwekar, Adv.

Mr. Seshatalpa Sai Bandaru, AOR

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Mr. Buddy A. Ranganadhan, Adv.

Ms. Shefali Tripathi, Adv.

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

The Sale and Monitoring Committee<sup>1</sup> has sold 103 properties/investments. 17 properties/investments have not been sold for various reasons including failure/non-interest of bidders.

We grant three months' further time to the SMC to try and sell the aforesaid 17 properties/investments. If the 17 properties/investments remain unsold within this period, the Securities and Exchange Board of India<sup>2</sup> will sell the properties.

Approximately, ₹435.61 crores (Rupees Four Hundred and

1 "SMC", for short.

2 "SEBI", for short.



Thirty Five Crore Sixty One Lac Only) have been collected from the sale of properties/investments, recoveries and interest earned. This includes ₹41.99 crores (Rupees Forty One Crore Ninety Nine Lac Only), regarding which there is a claim by banks and other financial institutions. ₹393.62 crores (Rupees Three Hundred Ninety Three Crore Sixty Two Lac Only) is, however, free from any such claim, and can be paid to the investors.

As per the forensic report, ₹8,852 crore (Rupees Eight Thousand Eight Hundred Fifty Two Crore Only) was collected from the public/investors by the two companies, namely, Royal Twinkle Star Club Limited and Citrus Check Inns Limited. ₹3,430 crore (Rupees Three Thousand Four Hundred Thirty Crore Only) stands repaid to the investors. In addition, ₹3,077 crore (Rupees Three Thousand Seventy Seven Crore Only) was paid as commission to the investors. These details with names and figures are available. The aforesaid companies were operating on a pyramid scheme(s), as per which the investors were entitled to commission, depending upon the number of new investors introduced and who made investments.

As per the Resolution Professional, who had invited claims and has undertaken analysis, there are, in all, 31,86,702 investors who had deposited a principal amount of ₹6,688 crore

(Rupees Six Thousand Six Hundred Eighty Eight Crore Only) approximately. The said figure does not tally with the forensic report, as per which the investment made in the two companies was ₹8,852 crore (Rupees Eight Thousand Eight Hundred Fifty Two Crore Only). However, this may be for the reason that the Resolution Professional had computed the figure on the basis of the total number of claims received. It is stated at the Bar on behalf of the Resolution Professional that the computerized records are available for ascertaining the total number of investors, the investment made *vide* each instrument/ deposit, etc.

Before us, the Resolution Professional has submitted the following chart: -

“

Calculation of Principal Repayment				
Sr. No.	Slab	No. of investors	Principal Amount	Repayment Amount
1.	1-500	1,19,650	5,97,66,733	5,97,66,733
2.	501-2500	4,53,547	63,87,43,173	63,87,43,173
3.	2501-5000	3,60,236	1,56,37,55,679	1,56,37,55,679
4.	5001-7500	1,42,544	93,22,12,210	93,22,12,210
5.	7501-10000	3,41,170	3,29,20,64,088	Not Proposed
6.	>=10001	17,69,555	60,39,66,99,479	Not Proposed
		<b>31,86,702</b>	<b>66,88,32,41,362</b>	<b>3,19,44,77,795</b>

1. On the slab of Outstanding Principal of up to ₹7,500 total amount of ₹319.45 Crore is to be paid in which entire principal amount will be paid.

2. In above repayment plan total 10,75,977 investors will be

discharge in full i.e. 33.76% of total investors.”

We do believe that payment of ₹393 crore (Rupees Three Hundred Ninety Three Crore Only) should be made to the investors. However, this exercise would require verification of the amount already paid to the investors either in the form of a refund and/or as a commission. The total quantum of investment made by each investor is also to be ascertained, as one investor could have multiple deposits/units. This exercise is necessary as ₹393 crore (Rupees Three Hundred Ninety Three Crore Only) is not sufficient to make payment to all investors.

In these circumstances, we deem it appropriate to direct SEBI to form a Committee of their officers and provide secretarial services for carrying out the said exercise by adopting a fair and equitable formula. The Resolution Professional will also be a member of the said Committee.

Mr. A.P. Kurhekar, retired District Judge and retired member of Maharashtra Administrative Tribunal, is appointed as the Chairperson of the aforesaid Committee. The Committee will submit its report within a period of three months from today.

In the meanwhile, the Committee will be entitled to make payment to small investors, to whom, after adjustment of the commission/refund, an amount not exceeding ₹5,000 (Rupees Five

Thousand Only) towards the actual principal amount paid by an investor will be paid. While undertaking this exercise, the Committee will take into account the total amount of investments made by the said investor. This means that if an investor had multiple deposits/units, the total refund should not exceed ₹5,000 (Rupees Five Thousand Only).

Mr. A.P Kurhekar, retired District Judge, and retired member of Maharashtra Administrative Tribunal will be paid Rs. 50,000/- (Rupees Fifty Thousand only) per sitting day, for the said exercise.

There are claims by banks and Non-Banking Financial Corporations<sup>3</sup>, which have submitted that the specific immovable properties have been mortgaged with them. The amount of Rs.41.98 crore (Rupees Forty One Crore Ninety Eight Lac Only) referred to earlier, cannot be disbursed till the claims *inter-se* the investors and the banks/NBFCs are adjudicated. There are also banks who have sold the properties, with permission from this Court, albeit the sale proceeds are lying in the escrow accounts. In these cases also, the claims and rights *inter-se* the investors and the banks/NBFCs have to be adjudicated.

We deem it appropriate to appoint a Committee comprising

3        "NBFC", for short.

Mr. Justice (Retd.) J.P. Devadhar, former Judge, High Court of Bombay to undertake the aforesaid exercise.

The report will be submitted by Mr. Justice (Retd.) J.P. Devadhar Committee, to this Court within three months and thereupon, appropriate orders will be passed. We have directed the said exercise, as it would cut short the delay and help us to resolve the matter, which will be in the interest of both, the investors and the banks/NBFCs. We must also record that Cosmos Co-operative Bank Limited, Axis Bank Limited and SVC Co-operative Bank Limited have no objection to the appointment of the Committee.

The Committee of Mr. Justice (Retd.) J.P. Devadhar will be entitled to examine all claims and contentions of the banks/NBFCs and the investors. We have not made any comments on the merits of the claims made by the banks/NBFCs or investors.

The investor groups, as well as, the Resolution Professional can appear before the Committee of Mr. Justice (Retd.) J.P. Devadhar to ensure that the investors' interest is fully taken into consideration.

A dispute has also arisen with regard to 88 other companies/entities, which, as per the report of investigation

conducted by the Economic Offences Wing<sup>4</sup> of Mumbai Police, have taken advantage of the money of the investors.

As noted above, the amount of ₹3,077 crores (Rupees Three Thousand Seventy Seven Crore Only) has been paid as commission. There are about 11 families, which have received substantial amounts of commission exceeding ₹308 crores (Three Hundred Eight Crore Only)(cumulative)<sup>5</sup>. As per the investigation conducted by the EOW of Mumbai Police, 99 properties have been purchased by 7 commission agents.

The EOW, Mumbai Police will furnish full details and particulars in the above regard to Mr. Justice (Retd.) J.P. Devadhar Committee, who will call upon the parties including the 88 companies/entities, 11 families and 7 commission agents to furnish proof and details of the source from which these properties were purchased. The investors and the Resolution Professional will be also heard and thereupon, a report, preferably within five months, will be submitted to this Court for appropriate orders.

Mr. Justice (Retd.) J.P. Devadhar will be paid ₹2,00,000/- (Rupees Two Lac Only) per sitting day, as already directed, for the said exercise. He will be entitled to avail services for

4 "EOW", for short.

5 As per Deloitte Report dated 04.11.2019 @ Pg 16-19

ground work etc. of a retired District Judge/Additional District Judge, if he so desires, to whom payment of ₹60,000/- (Rupees Sixty Thousand Only) per sitting day will be made.

For the present, payment of a fee to Mr. Justice (Retd.) J.P. Devadhar Committee will be made from the corpus consisting of the sale proceeds or any other fund which is available.

The report submitted by SEBI in sealed cover will be made public. SEBI will be entitled to proceed in accordance with law.

The Directorate of Enforcement will file a status report as to the present stage of the investigation. EOW, Mumbai Police will also file a status report as to the present stage of prosecution. They will ensure that the proceedings are expedited. We also request the trial Court to proceed expeditiously.

We clarify that it is open to SEBI to proceed in accordance with law in respect of the 88 companies/entities and their properties, as well as, commission agents and their properties.

We increase the remuneration being paid to the Resolution Professional to ₹2,00,000/- (Rupees Two Lac Only) per month

with effect from 01.08.2024.

Payment of ₹8,00,000/- (Rupees Eight Lac Only) being made to Mr. Om Prakash Goenka<sup>6</sup> will stand reduced to ₹3,00,000/- (Rupees Three Lac Only), a figure, which, it is stated, is being paid to him with effect from April 2023. We permit Mr. Om Prakash Goenka to open one bank account, of which, details will be furnished to this Court within one month from today. The Permanent Account Number allotted to Mr. Om Prakash Goenka will be defreezed and he is permitted to use it for the said bank account. No payment will be made to Mr. Om Prakash Goenka with effect from 01.11.2024. He must cooperate with the exercise being undertaken.

I.A. Nos. 102226/2022 and 150469/2021 in Civil Appeal No. 20971/2017 and I.A. No. 130265/2018 in SLP(C) No. 3374/2018

The applications are allowed, subject to all just exceptions.

The restraint order(s) passed by this Court stands vacated. Sale certificates, if not already issued, shall be issued and can be registered.

The purchasers will be entitled to deal with the property in question in accordance with law.

<sup>6</sup> Chairman of the Mirah Group, of which the two companies, namely, Royal Twinkle Star Club Limited and Citrus Check Inns Limited are part of.



I.A. Nos. 121073/2018, 107708/2018, 90754/2018 and 90757/2018 in Civil Appeal No. 20971/2017 and I.A. No. 164314/2024 in SLP(C) No. 3385/2018

The applications are allowed, subject to all just exceptions.

The stay order(s) stands vacated.

Sale certificates, if not already issued, shall be issued and can be registered.

The purchasers will be entitled to deal with the property in question in accordance with law.

I.A. No. 44706/2021 in SLP(C) No. 3385/2018

It is stated that payment of the amount has been received.

The injunction order(s) stands vacated.

The application is allowed, subject to all just exceptions.

I.A. Nos. 25273/2019, 25276/2019, 119031/2019, 59581/2023 in Civil Appeal No. 20971/2017

The applications are allowed, subject to all just exceptions.

The injunction order(s) stands vacated.

The sale certificate will be issued upon payment of ₹15,00,00,000/- (Rupees Fifteen Crore Only), which amount has to be paid within a period of 60 days from today.

In case of any difficulty, it will be open to the parties to move before this Court.

I.A. No. 95939/2024 in I.A. No. 161115/2019 in SLP(C) No. 3385/2018

This is an application for the substitution of Citi Bank N.A., the original applicant in I.A. no. 161115/2019, with Axis Bank Limited.

The application is allowed, subject to all just exceptions.

Amended memo of parties will be filed.

I.A. No. 86815/2018 and 88185/2018 in SLP(C) No. 3386/2018

These applications have been preferred by the Bank of Baroda seeking impleadment as a party respondent to the special leave petition and for auction/sale of properties in accordance with the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.<sup>7</sup>

We allow the applications, subject to all just exceptions.

Amended memo of parties will be filed.

The properties in question may be auctioned/sold in accordance with the provisions of the SARFAESI Act. The sale

<sup>7</sup> "SARFAESI Act", for short

proceeds, however, will be deposited in an escrow account and will not be either appropriated or utilized without the permission of this Court.

I.A. No. 99636/2020 in Civil Appeal No. 20971/2017

This is an application by Cosmos Co-operative Bank Limited, seeking directions.

The application is allowed, subject to all just exceptions.

The properties in question may be auctioned/sold in terms of and in accordance with the provisions of the SARFAESI Act. The sale proceeds, however, will be deposited in an escrow account and will not either be appropriated or utilized without the permission of this Court.

I.A. Nos. 185309/2023, 35672/2023, 172823/2021 and 172824/2024 in Civil Appeal No. 20971/2017

SEBI will file a reply to these applications within a period of four weeks from today. Rejoinder affidavit, if any, will be filed within four weeks after service of reply.

Notwithstanding the pendency of these applications, the issues raised by the applicants and the claims of the investors/claimants including SEBI will be considered by the SMC.

**Re-list the appeals and special leave petitions along with pending applications in the week commencing 18.11.2024.**

**(DEEPAK GUGLANI)**  
**AR-cum-PS**

**(R.S. NARAYANAN)**  
**ASSISTANT REGISTRAR**