

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION No 344 OF 1998

Securities and Exchange Board of India

.....Petitioner

Versus

M/S Golden Forests (I) Ltd

.....Respondent

Mr. R A. Dada, Senior Counsel with
K. Desai and C. Balsara
i/b Manaksha Sethna & Co. for the petitioners

Mr. Y. H. Muchhala, Senior Counsel with
B. Somandy i/b S. Udeshi & Co. for the respondents

CORAM : Dr. B.P. Saraf, C.J. (Actg)
& V. C. Daga, J.

Date : 16th February, 2000

P.C.

1. The above matter came up before us on 31-1-2000 and its was brought to our notice by an affidavit dated 17-11-1999 filed by the respondent No. 1 that through pursuant to the order of this court dated 30-9-1999, the first respondent through an advertisement in the national daily invited offers for sale of its certain properties, none of the buyers has been shown interest in purchasing the same because of the restrain imposed by the order of this Court dated 30-9-1999. It was also brought to notice by way or above affidavit that the first respondent is apprehending forced prosecution in view of the fact that large number of post dated cheques bearing the dates after the month of December, 1999 issued by first respondent to the investors opting for premature refund are likely to be dishonoured because of inability of the first respondent to generate liquidity by selling its assets.

The first respondent in the above backdrop sought certain orders and directions from this court; like grant of unconditional power to sell some part of its assets for realizing the amount to clear off all its liabilities and also prayed for extension of time till 31-7-2000 for payment of premature refund to the investors.

2. After hearing the learned counsel for respondent No 1 and the learned Counsel for all other parties matter at some length, we called upon the parties to suggest ways and means to implement the order of this Court dated 30-9-1999 in its true letter and spirit and also suggested them to consider the feasibility of appointing a retired High Court Judge as a private receiver for sale of the properties as per order dated 8-7-1999 as modified by order dated 30-9-1999. The matter was adjourned to 2.45 p.m. to enable the learned Counsel for the parties to obtain instructions.
3. The Matter was again called out 2.45 p.m. on 31-1-2000 and the learned Counsel for the parties agreed that Mr. Justice M.L. Pendse (Retd.) be appointed as a private receiver for sale of properties set out in the Schedule. In view of this, at the request of the parties, the matter was adjourned to 1-2-2000 to enable them to file minutes of the order.
4. The matter was again placed before us on 1-2-2000. At this stage, the respondent No 1 filed an additional affidavit wherein amongst others, it was stated that the first respondent was ready and willing to have retired Judge of this Court only to supervise and approve negotiations for sale and to recommend genuine proposal of sale to this Court for its sanction. The first respondent however accorded its no objection to the appointment of Mr. Justice M L Pendse (Retd.) for this purpose. The learned counsel for the petitioners however objected to the new suggestion by the first respondent that the private receiver should be appointed only to supervise and approve the negotiations. The learned Counsel submitted that until and unless full liberty is given to sell the property to the private receiver the orders passed by this Court would remain paper orders only.
5. In view of the disagreement between the parties in regard to the function and duties of the receiver, we heard the parties afresh at length. After giving our thoughtful consideration to the arguments, suggestions and views put forth by the parties and keeping in view the previous orders of this Court, we are of the firm opinion that consideration the public interest, the large amount involved in the litigation and the faith reposed by the investors in this Court, it is the bounden duty of this Court to see that its earlier orders are implemented in its true letter and spirit. Hence, we pass the following order with a view to see the true and correct implementation of our previous orders.

- [1] Mr. Justice M L Pendse [Retd.] is appointed as a private receiver for sale of properties described in Exhibit No 1 to the affidavit dated 2nd September, 1999 filed by Neeraj Chaudhary as Constituted Attorney on behalf of respondent No . The list of properties are set out in the Schedule attached to this order [hereinafter referred to as "the said properties" for short]
- [2] The Directors of the company shall within two weeks from today pass resolution for sale of the said properties referred to hereinabove.
- [3] The said properties to be sold through the private receiver named and appointed under this order:
- [4] The petitioner SEBI will maintain account in respect of sale of the properties. The respondent No 1 Company and its Directors shall deposit initially Rs 25 Lacs with SEBI on account within two weeks from today towards the cost and expenses to be incurred for sale of the properties.
- [5] The respondent No 1 company and its Directors shall hand over the original Titles Deeds in respect of the properties referred in the Schedule to the receiver within four weeks from today.
- [6] In case the original titles deeds do not stand in the name of respondent No 1 Company. Then the Directors shall produce dully verified affidavit of the person in whose name the properties are standing equivocally undertaking that such person has no objection and consents to the properties being sold by the private receiver and the sale proceeds thereof to be appropriated as per the directions of this Court. The affidavit to disclose that such person has no personal interest whatsoever in the properties to be sold.
- [7] The respondent No. 1 Company and its Directors to file an affidavit stating therein that none of the nineteen properties to be sold and charged, mortgaged or encumbered in any manner whatsoever and that there is no restriction whatsoever for sale of any the said properties. The Respondent No 1 and the Directors to file an affidavit to this effect before this Court within two weeks from today.

[8] The respondent No. 1 Company and the Directors shall obtain necessary consent/approval of authorities as may be directed by the private receiver from time to time.

[9] The Private receiver shall be at liberty to appoint any personnel including valuers and to do all acts and things necessary to facilitate the sale of the properties. The Respondent No. 1 Company and Directors shall deposit such amounts as may be directed by the private receiver with SEBI from time to time. SEBI to make payment to the private receiver and to others as directed by the private receiver from time to time.

[10] The private receiver shall settle the terms and conditions of sale and determine whether property should be sold by the public auction or private treaty. The sale proceeds shall be deposited in the account maintained by SEBI from time to time. The sale of the properties shall be subjected to confirmation by this Court.

[11] The private receiver shall submit report to the Court once in every three months. The parties are at liberty to move the court in case any direction or clarification is required.

[12] The Directors of respondent No. 1 Company and their relations and/or Companies associated with Respondent No. 1 shall not purchase any of the properties mentioned in the Schedule without prior approval of this Court.

An authenticated copy of this order may be sent to Shri Justice M.L. Pendse [Retd.] the private receiver for doing needful in the matter as expeditiously as possible.

Parties also to act on authenticated copy of this order
Heard Mr Mochala, learned Counsel for Respondent No. 1 on the prayer for stay of order.

We however, feel that in view of the seriousness of the matter and public interest involved, the request for stay of order is rejected.

SCHEDULE

List of Nineteen Properties to be sold by Golden Forests (India) Limited in pursuance of the order of this Court.

| S.No. Project Detail | Place | Area (Acres) | Approx. price (Cr.) |
|----------------------------|-------------------------|--------------|---------------------|
| 1. Farmlands | Bibinagar/Hyderabad | 200 | 50 |
| 2. Land (Golden Golf Club) | Chhotupal/Hyderabad | 75 | 6 |
| 3. Resort Hotel Land | Chhotupal/Hyderabad | 50 | 5 |
| 4. Housing Complex | Chhotupal/Hyderabad | 43 | 4 |
| 5. Health Resort Land | Chhotupal/Hyderabad | 40 | 33 |
| 6. Farmlands | Chhotupal/Hyderabad | 250 | 20 |
| 7. Housing Complex Land | Harsola, Indore | 50 | 3 |
| 8. Residential School Land | Harsola, Indore | 50 | 3 |
| 9. Resort and Farmland | Harsola, Indore | 200 | 15 |
| 10. Farmland | Harsola, Indore | 250 | 15 |
| 11. Resort Hotel | Kot-Billa, Panchkula | 15 | 8 |
| 12. Golden Golf Club | Kot-Billa, Panchkula | 75 | 50 |
| 13. Farmlands | Kot-Billa, Panchkula | 400 | 80 |
| 14. Health Resort | Nolta, Pinjore | 25 | 15 |
| 15. Housing Complex | HMT, Pinjore | 8 | 2 |
| 16. Farm Land | Near Ambala NH-22 | 200 | 90 |
| 17. Resort and Farmland | Near Ambala NH-22 | 200 | 50 |
| 18. Housing Complex | Pir Machella, Panchkula | 45 | 20 |
| 19. Housing Complex | Nalagarh, H.P. | 64 | 2 |
| Total | | 2184 | 441 |

True Copy
Sd/-
16.02.2000
(K. K. Trivedi)
Associate High Court, Bombay