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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Decided on: 20.12.2016**

+ **W.P.(C) 1399/2010**

NATIONAL INVESTOR FORUM REGD. .... Petitioner

Through: None.

Versus

GOLDEN FORESTS INDIA LTD. .... Respondent

Through: Mr. Neeraj Malhotra with Mr. Rupal Luthra, Advocates for SEBI.

Ms. Suruchi Aggarwal, Advocate for GFIL.

Mr. Keshav Mohan and Mr. Deepak Pathak, Advocates for EPFO.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**MR. JUSTICE S. RAVINDRA BHAT**

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1. The Golden Forests (India) Ltd (GFIL) was incorporated in 1987. Between the years 1991 and 1997, its promoters set-up over 100 companies, including Golden Tourist Resorts and Developers Ltd (1991), Golden Lease Finance Ltd (1994), Golden Projects Ltd (1996), Himachal Country Resorts Ltd, etc (hereafter called "GFIL group"). Golden Projects Ltd introduced a number of investment schemes promising handsome returns, luring investors and depositors, and in three years collected several hundred crores of Rupees. Large tracts of lands and property were acquired by it; likewise a large number of properties were acquired in the name of Golden Tourist Resorts and Developers Ltd and others in the name of Himachal Country Resorts Ltd and some other companies.

3. The GFIL group was controlled by the Syal family. In 1997, the

Securities Exchange Board of India (SEBI) inquired into the activities of GFIL group and a two member Committee was constituted. Its report was submitted on 21.04.1998. The report highlighted financial and other irregularities committed by the company. A writ petition was filed in the Bombay High Court by SEBI in which an order was passed against GFIL restraining it from alienating the properties; a similar order was passed by this High Court in the same year. SEBI on 09.01.1998 made an order prohibiting the company from alienating its properties. Justice M.L. Pendse (Retired) was appointed as Receiver and certain properties were earmarked for sale, but the Receiver could not sell the properties. GFIL, in the meanwhile continued to accept deposits, carrying business and alienating properties. In this background, winding-up proceedings, being CP No 60/2001 (*National Investor Forum vs. Golden Forests (India) Ltd*) was preferred before the Punjab & Haryana High Court in 2001. The Company Judge by order dated 18.06.2003 directed that all properties of the company would be managed, controlled, regulated by a provisional liquidator, who shall have power to sell the moveable and immovable properties. Further, by order dated 20.06.2003, Justice R.N. Aggarwal (Retd) was appointed Provisional Liquidator.

4. The company petition and all other proceedings pending against GFIL in various High Courts throughout the country were transferred to the Supreme Court by order dated 12.09.2003, in a transfer petition filed by SEBI (*Securities and Exchange Board of India vs. Golden Forests (India) Ltd. & Anr.* – TP No. 696 of 2002). CP 60/2001 was also transferred to the Supreme Court and numbered as T.C. (Civil) No. 68 of 2003. The Supreme

Court by its order dated 19.08.2004 constituted a committee consisting of Justice K.T. Thomas (Retired Judge of the Supreme Court), an officer to be nominated by the Reserve Bank of India (RBI) and an officer to be nominated by SEBI, and further ordered the committee to take into its custody all assets of the company, wherever they may be, to issue advertisement in newspapers calling upon all the creditors of the company to submit the claim(s) before the Committee. Mr. Justice K.T. Thomas (Retd.) requested the court to be relieved and accepting that request the Supreme Court on 10.09.2004 appointed Justice R. N. Aggarwal (Retd.) in his stead. Justice Aggarwal was earlier the Provisional Liquidator. RBI appointed Mr. P.K. Arora, DGM, RBI, Chandigarh as its whole time member on the committee. The SEBI appointed Mr. S.K. Sharma as a member on the Committee. Subsequently, the Supreme Court, on 05.09.2006, replaced Mr. P. K. Arora, DGM, RBI and Mr. S.K. Sharma, DGM, SEBI with Mr. H. L. Randev and Mr. B.S. Bedi, both former District and Sessions Judges who were appointed Members on the Committee.

5. The Supreme Court had fixed 10.08.2006 as the cut-off date for receipt of claims from investors. It made an elaborate order on that date on various aspects; the relevant part of the Supreme Court's order of 05.09.2006, pertaining to claims is extracted below:-

*“The committee should accept the claims of only those claimants, who have original authenticated receipts issued by the GFIL. The committees shall categories the range of investment by depositors and treat the small, medium and big investors in separate categories. Appropriate orders regarding disbursement of the amount among the small, medium and big investors shall be passed at a later date, after the total amount*

*of sale of the properties is received. The committee shall not entertain claims passed on alleged deposits accepted by any agents in the year 2001 till date after the closure of the business of the GFIL. No claim without clear proof of deposit of money with the company shall be considered.”*

6. The liabilities were to be discharged by sale of the properties of GFIL and its group. The same order of the Supreme Court, (dated 05.09.2006, in T.C. (C). 2 of 2004) *inter alia*, directed as follows:-

*“B. Immovable properties identification, taking possession and removal of encroachments:*

31. *Directions are sought to be given to the Deputy Commissioners and other Civil and Revenue authorities of the States of Punjab and Uttaranchal to help in ascertaining the details of the properties owned by the GFIL and to extend all help and cooperation to recover the possession of such properties with the help of police, if and wherever required and to demarcate the lands belonging to the companies in accordance with the revenue entries relating to the year 2000 and onwards.*

32. *The GFIL or any of the other lawyers representing various other claimants have no objection to issuance of the directions sought for by the Committee under this point.*

33. *Accordingly, the Deputy Commissioner and other revenue authorities in the States of Punjab / Haryana and Uttaranchal are directed to help the Committee in ascertaining the details of properties owned by GFIL and to extend all help and cooperation to recover the possession of such properties even with the help of police, if and when required, and to demarcate the lands belonging to the companies in accordance with the revenue entries relating to the year 1998 and onwards.*

34. *Chief Secretaries and the DGPs./IGPs. are directed to issue suitable directions to all the Deputy Commissioners, police officers and civil servants to render such help.*

35. *The civil as well as police authorities are also directed to take action against the illegal encroachments and construction adjoining the Resort at Billa. Revenue authorities of the respective States are also directed to help in removal of such illegal encroachments.*

C. *Directions regarding sale of properties:*

36. *Directions for sale are sought in respect of the properties at Jharmari, lands at Village Kot Billa, Jaswant Garh and other adjoining villages and a Resort at Nalagarh, and the mode and procedure for the sale of the properties of GFIL, possession of which has been taken.*

37. *The Committee is put at liberty to put to sale the properties at Village Jharmari, lands at Village Kot Billa, Jaswant Garh and other adjoining villages and a Resort at Nalagarh and other properties of GFIL, possession of which has already been taken by the Committee, by auction after due publicity. The sale shall be subject to the confirmation by this Court. After the properties are put to sale, the Committee shall report to this Court about the auction sale effected which shall be subject to the final orders of this Court.”*

The Supreme Court also made orders regarding disbursement of amounts, after selling the properties. The court continued to oversee and monitor the functioning of the committee constituted by it and also made several directions, cancelling intervening sale and other transfer of GFIL assets. Finally, on 03.02.2010, the Supreme Court disposed of all proceedings

pending before it, directing as follows:

*“Various Writ Petitions which are pending before different High Courts were transferred to this Court. The main dispute in these cases are that the respondent The Golden Forests (I) Ltd. collected a large amount of money from a large number of depositors/investors and it purchased several immovable properties at different places. The said investors are putting up their claims.*

*Various transferred cases, interim applications, contempt petition as well as the writ petition are pending in this Court. Some of the properties owned by the respondent were sold in auctions, pursuant to Court orders and in some cases the purchasers have deposited the full amount, and in some cases, purchasers have yet to pay the balance amount.*

*Having regard to the various claims, it is just and proper that these matters be considered by the High Court of Delhi treating the Transferred Cases as Writ Petitions. Pending winding up proceedings be also heard by the High Court, and proceed with the same for further directions and orders. Various interim orders have been passed by this Court in these cases and the High Court shall have due regard to the same while taking further proceedings. The High Court would be at liberty to pass any appropriate orders in these matters.*

*The parties shall be at liberty to raise additional contentions they wish and the High Court shall dispose of the claims of investors in accordance with law. If the High Court feels that any further Arbitrator or Commissioner is required to be appointed, the High Court may pass appropriate orders.*

*All the matters i.e. transferred cases, interim applications, contempt petition as well as the writ petition are*

*directed to be transferred to the Delhi High Court. The parties are directed to appear before the High Court on 15th March 2010 and thereafter the High Court is requested to pass appropriate orders in these cases.”*

7. After the above order, this court has been monitoring the progress of identification, securing and disposal of the GFIL group of companies' properties. The court has also overseen the orders made by the Committee for GFIL from time to time in respect of specific properties, such as confirmation of its sales, confirmation of orders cancelling or disregarding transfers of GFIL properties made by contravening the orders of court, etc. The Committee for GFIL has performed its task diligently all the while. Two members of the committee (other than the Chairperson) had resigned due to advancing age or inability to cope with the work. Now, even the chairman, Justice Aggarwal expressed his inability to continue with the committee's work; he has crossed the age of 90. In these circumstances, an application was preferred before the Supreme Court requesting that Justice Aggarwal be relieved of his responsibilities. The Supreme Court, by its order dated 26.09.2016 required this court to make appropriate orders in this regard. Therefore, when this court was informed about these developments, it requested counsel for SEBI, on 15.11.2016 to inquire the availability of retired officers in Chandigarh. The SEBI stated that although some retired officers would be available, they might not possibly be able to devote full time for the task.

8. In the circumstances, the Registrar General was asked to forward a request to Hon'ble the Chief Justice of the Punjab & Haryana High Court to suggest names of willing retired Judges of that High Court and also retired

District Judges, who could assume the task. The names suggested by the Hon'ble the Chief Justice of the Punjab & Haryana High Court were forwarded to this Court by communication dated 14.12.2016. After considering them, the Court hereby nominates the following to assume charge and act as the Chairman and the Members of the Committee :

- (a) Justice K.S. Garewal (as Chairman)  
Former Judge, Punjab & Haryana High Court
- (b) Sh. P.L. Ahuja (as Member)  
District Judge, Haryana (Retd)
- (c) Sh. B.M. Bedi (as Member)  
District Judge, Haryana (Retd).

Justice K.S. Garewal (Retd) and the other Members are requested to take charge at their earliest convenience. Needless to add, Justice R.N. Aggarwal (Retd) would extend all cooperation and hand over all necessary documents and papers as well as impart such information or instructions as may be useful having regard to the experience he gathered chairing the Committee. The terms and conditions of the Committee shall be the same as applicable to the previous Members and the Chairman. In case of any difficulty or clarification, it is open to the Committee to seek appropriate clarifications from the Court. The Court hereby records its gratitude and appreciation for the task so diligently performed by Justice R.N. Aggarwal.

Order dasti.

**S. RAVINDRA BHAT**  
**(JUDGE)**

**NAJMI WAZIRI**  
**(JUDGE)**

**DECEMBER 20, 2016**