

ITEM NO.11

COURT NO.8

SECTION X

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

Writ Petition(s)(Civil) No(s). 188/2004

M/S. RAIGANJ CONSUMER FORUM

Petitioner(s)

VERSUS

UNION OF INDIA . & ORS.

Respondent(s)

IA No. 33106/2019 - APPLICATION FOR PERMISSION
 IA No. 130757/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 75903/2022 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 94012/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 58091/2021 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 62733/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 132630/2021 - CLARIFICATION/DIRECTION
 IA No. 45905/2019 - CLARIFICATION/DIRECTION
 IA No. 132614/2021 - CLARIFICATION/DIRECTION
 IA No. 110706/2021 - CLARIFICATION/DIRECTION
 IA No. 77270/2021 - CLARIFICATION/DIRECTION
 IA No. 132665/2021 - CLARIFICATION/DIRECTION
 IA No. 132657/2021 - CLARIFICATION/DIRECTION
 IA No. 132644/2021 - CLARIFICATION/DIRECTION
 IA No. 132638/2021 - CLARIFICATION/DIRECTION
 IA No. 75905/2022 - EXEMPTION FROM FILING O.T.
 IA No. 62731/2019 - INTERVENTION APPLICATION
 IA No. 84589/2022 - INTERVENTION APPLICATION
 IA No. 110701/2021 - INTERVENTION APPLICATION
 IA No. 130756/2020 - INTERVENTION APPLICATION
 IA No. 94002/2020 - INTERVENTION APPLICATION
 IA No. 58090/2021 - INTERVENTION APPLICATION
 IA No. 32653/2021 - INTERVENTION APPLICATION
 IA No. 27236/2021 - INTERVENTION/IMPLEADMENT
 IA No. 131614/2020 - MODIFICATION OF COURT ORDER
 IA No. 130807/2020 - WITHDRAWAL OF CASE / APPLICATION)

WITH

T.C.(C) No. 2/2004 (XVI-A)

(IA No. 80258/2020 - APPLICATION FOR PERMISSION
 IA No. 80260/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 62749/2022 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 79102/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 147187/2021 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 42747/2021 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 80264/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 147188/2021 - EXEMPTION FROM FILING O.T.
 IA No. 147185/2021 - EXEMPTION FROM FILING O.T.
 IA No. 147184/2021 - INTERVENTION APPLICATION)

IA No. 158706/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

**CONMT.PET.(C) No. 701/2021 in T.C.(C) No. 2/2004 (XVI-A)
(FOR ADMISSION and IA No.35282/2021-EXEMPTION FROM FILING O.T.
IA No. 35282/2021 - EXEMPTION FROM FILING O.T.)**

**CONMT.PET.(C) No. 942/2021 in T.C.(C) No. 2/2004 (XVI-A)
(FOR ADMISSION)**

Date : 24-01-2023 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH**

For Petitioner(s)

**Mr. Bhargava V. Desai, AOR
Mr. Rahul Gupta, Adv.
Mr. Siddhartha Chowdhury, Adv.
Mr. Utkarsh Vats, Adv.
Mr. Deepanshu, Adv.**

Mr. Pankaj Kumar Mishra, AOR

**Ms. Surichi Aggarwal, Sr. Adv.
Mr. Viraj Kadam, Adv.
Mr. Prashant Chauhan, Adv.
Mr. Ajay Kumar, Adv.
Mr. Soumya Dutta, AOR**

Mr. Ranjan Mukherjee, AOR

For Respondent(s)

**Mr. Shailendra Bhardwaj, AOR
Ms. Minakshi Vij, AOR
Mr. Yash Pal Dhingra, AOR
Mr. Pankaj Kumar Mishra, AOR
Mr. Ranjan Mukherjee, AOR
Mr. Shubham Bhalla, AOR
Mr. Somnath Mukherjee, AOR
Ms. Ranjeeta Rohatgi, AOR
Mr. Surya Kant, AOR**

**Ms. Madhvi Divan, ASG
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Ms. Shridha Mehra, Adv.
Mr. Ayush Puri, Adv.
Mr. A.K. Sharma, AOR**

Mr. Harpal Singh Saini, Adv.

Mr. M. C. Dhingra, AOR
Mr. Gaurav Dhingra, Adv.
Mr. Arvind Kumar Gandhi, Adv.
Mr. Vikrant Yadav, Adv.
Ms. Madhvi Yadav, Adv.

Mr. R. Gopalakrishnan, AOR

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Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Niharika Dewivedi, Adv.
Ms. Shweta Sand, Adv.
Mr. Narendra Pal Sharma, Adv.
Mr. Ravish Kumar Goyal, Adv.
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Mr. Nitin Sharma, Adv.

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Ms. Shalu Sharma, AOR
Mr. B. K. Pal, AOR
Mr. S. Ravi Shankar, AOR
Mr. Arun K. Sinha, AOR
Mr. Alok Gupta, AOR
Mr. A. P. Mohanty, AOR
Mr. Rameshwar Prasad Goyal, AOR

Mr. Siddharth, AOR
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Mr. Kartik Jasra, Adv.

Mr. Ashwani Kumar, AOR

M/S. K J John And Co, AOR
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Akhil Abraham Roy, Adv.

Mr. Abhijit Sengupta, AOR

Mr. Sanjay Jain, A.S.G.
Mr. Padmesh Mishra, Adv.
Ms. Swarupma Chaturvedi, Adv.
Mr. Prashant Singh Ii, Adv.
Mr. Raghav Sharma, Adv.
Mr. Shashank Bajpai, Adv.
Mr. R R Rajesh, Adv.
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Mr. Omkar Jayant Deshpande, Adv.
Mrs. Pradnya S Adgaonkar, Adv.

Mr. Jagjit Singh Chhabra, AOR
Mr. Mohit D. Ram, AOR
Ms. Ranjeeta Rohatgi, AOR

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Mr. Himanshu Sethi, Adv.
Mr. Jatinder Kumar Bhatia, AOR

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Mr. Shaurya Lamba, Adv.
Ms. Bano Deswal, Adv.
Mr. Sunil Kumar Srivastva, Adv.
Mr. Aditya Mishra, Adv.

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Mrs. Anshu Vachher, Adv.
Mr. Abhishek Chauhan, Adv.
Mr. Jyotishman Kar, Adv.
Mr. Amit Kumar, Adv.
Mr. P. N. Puri, AOR

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

1. There are various concerns shown by the various parties.
2. Shri Jatinder Kumar Sethi, learned Deputy A.G. appearing on behalf of the State of Uttarakhand submits that large pieces of land are surplus under the relevant agricultural land ceiling legislation of the State of Uttarkhand and thus, all these surplus lands are entitled to be vested in the State of Uttarakhand. However, on account of the statement made before this Court, which is recorded in the order dated 14.01.2020, the State of Uttarkhand is not in a position to pass orders in this respect though the proceedings are complete.

3. Mr. Harpal Singh Saini, learned counsel appearing on behalf of some of the allottees in I.A. Nos. 145179 of 2019 and 145178 of 2018 submits that such orders related to the land being surplus, could not be passed.

4. Mr. Maninder Singh, learned senior counsel appearing on behalf of the applicant in I.A. Nos. 56711 and 177449 of 2022 submits that insofar as his clients are concerned, their claims were already found to be justified by the Committee by an order dated 07.03.2022 and the Committee has already filed an application for ratification of the said decision of the Committee. We will consider these applications on the next date.

5. Mr. Jagjit Singh Chhabra, learned counsel appearing on behalf of the applicant in I.A Nos. 147184 and 147187 of 2022 submits that the applicants are *bona fide* purchasers of land from the Company and, therefore, they cannot be evicted.

6. Ms. Surichi Aggarwal, learned senior counsel appearing on behalf of the Committee submitted that insofar as the category of persons represented by Mr. Jagjit Singh Chhabra are concerned, the warrant of possession was issued but in furtherance of the observations made by this Court, no further steps have been taken.

7. She, however, submits that the claims of such persons have been already rejected by the Committee. Insofar as the

clients of Mr. Maninder Singh are concerned, she submits that the claim of such persons has been accepted by the Committee.

8. We find that it is not in dispute that the company owns huge pieces of land throughout the Country.

9. Indisputably, with regard to the certain pieces of land, there are competing claims and litigation pending.

10. We find that monitoring the auction of each and every property separately would be a herculean task. It will be difficult for the Committee to monitor such independent auctions. Equally, it will be difficult for us to review such decisions.

11. *Prima facie*, we are of the view that it will be in the interest of everyone that best price is received for the entire properties owned by the Company and in the least complicated manner.

12. We, therefore, find that it will be appropriate that the Committee gives a list of all such properties which could be auctioned to the Income Tax Department within a period of four weeks from today.

13. The Income Tax Authorities would make a valuation of such properties and submit the same to the Committee within a period of eight weeks which would thereafter be submitted to this Court.

14. We, *prima facie*, find that what is of paramount

importance is getting the best price in the least complicated manner, so that interest of the investors is safeguarded.

15. We further find it appropriate that if a composite auction of all the properties with the liabilities and encumbrances thereon is conducted, then the rigour of holding independent auctions will be avoided and, at the same time, it will fetch the best price.

16. We further find that the Committee, rather than being entrusted with the functions of supervising the auctions, should devote itself for distribution of the proceeds thereof to the investors.

17. Though, Shri V.Giri, learned senior counsel appearing for the applicant in I.A. No. 110706 and 110701 of 2021 has serious objection to this and urges for independent auction of each of the properties, we will consider the said objection while passing the final orders.

18. Insofar as the properties of which the auction is already completed by the Income Tax Authorities, the Income Tax Authorities are directed to take them to their logical end.

19. Needless to state that no further auction would be conducted, until further orders.

20. We request Mr. Sanjay Jain, learned Additional Solicitor General, who appears on behalf of the Union of India, to inform about the direction in para 13 to the concerned income

tax authorities.

21. Ms. Surichi Aggarwal also submitted that the disbursement of the amount to the investor has been done through an agency, namely, M/s. Karvy Fintech Private Limited. It is, however, reported at the bar that the said company is now in trouble and proceedings by the Enforcement Directorate have been initiated against its Directors.

22. We, therefore, find that it will be appropriate for the Committee to identify some other agency through whom the disbursement of further amount can be done.

23. Shri Narender Hooda, learned senior counsel appearing on behalf of the investors in I.A. Nos. 176824 and 188455 of 2022 submits that after the attachment by Income Tax Department, the Committee has received an amount of Rs. 700 Crores. However, vide order date 05.09.2018, the Income Tax Department has been stayed from making any further attachments.

24. Shri Hooda submits that, in compliance of the order dated 30.07.2018 directing distribution of 70% of the principal amount invested by the investor, out of the said Rs. 700 Crores, Rs. 463 Crores has been paid to 9,59,388 claimants. He further submits that there is an amount of Rs. 253 Crores still available with the Committee to be paid to the claimants. He submits that said amount of Rs. 253 Crores can be disbursed to the 9,59,388 claimants in settlement of the

remaining 30% of their invested principal amount and the same arrangement would be require an amount of Rs. 220 Crores approximately.

25. Since we have observed that a new agency for disbursement of amount is to be identified, we will consider passing of an order in this regard on the next date.

26. Shri Narender Hooda, learned senior counsel also submits that while conducting the auction, the Earnest Money Deposit (EMD) that is required to be paid is a meagre amount of Rs. 2,00,000/- which gives scope for cartel bargaining. We, *prima facie*, find that the submission is well merited.

27. We are, *prima facie*, of the view that, at least, 10 per cent of the upset price should be directed to be deposited as the EMD for participating in the auction.

28. List I.A. Nos. 141055, 141059, 167937, 87335, 167941 of 2018 and 80958, 143211 of 2021 in T.C.(C.) No. 2 of 2004, I.A. Nos. 75467 of 2020 in W.P.(C) No.188 of 2004 and C.A. No. 3134-37 of 2017 on 07.02.2023.

29. List the main matter on 25.04.2023.

(DEEPAK SINGH)
COURT MASTER

(ANJU KAPOOR)
COURT MASTER (NSH)