

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NO. 134873 OF 2022

IN

W.P. (C) No. 188 of 2004

IN THE MATTER OF:

M/s Raiganj Consumer Forum

.... Petitioner

Versus

Union of India & Others

.... Respondents

AND IN THE MATTER OF:

Aditya Kumar Sinha S/o Hritesh Kumar

Sinha, Resident of House No. 643,

Sector-8, Punchkula, Haryana

.... Applicant/Impleader

WITH

I.A. No. _____ OF 2022

APPLICATION FOR IMPLEADMENT

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR THE APPLICANTS: ADITYA SONI

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APPLICATION FOR IMPLEADMENT

To,

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. That the present application is being filed on behalf of the promoter shareholders of the Golden Projects Ltd., Golden Forest India Ltd. and its subsidiaries. The filing of the present application has been necessitated in order to highlight the anomalies and transgressions on part of the Income Tax Department while executing the mandate of this Hon'ble Court. The promoter shareholder herein sincerely wishes the process of law to take its due course so that the money so invested in the said companies can be returned to the investors. It is with this intent in mind that the present application is being filed before this Hon'ble Court.
2. That as the Applicant is a proper & necessary party in the present proceedings which is evident from the brief factual backdrop mentioned herein under:-
 - a) That this Hon'ble Court, vide order dated 27.11.2018, directed the valuation team so appointed by this Hon'ble Court to make the valuation of the property which had already stood identified in Part A. Copy of the order dated 27.11.2018 is annexed herewith as ANNEXURE A-1.
 - b) That thereafter, vide order-dated 07.05.2019, this Hon'ble Court recorded that the valuation of properties in

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chartannexure A had been submitted to the Hon'ble Court.
Copy of the said order dated 07.05.2019 is annexed herewith
as ANNEXURE A-2

c) That thereafter this Hon'ble Court on 25.09.2019 issued specific guidelines to be abided and adhered to for the purpose of auction of the properties, relevant directions being as under-

'Considering the submission, we pass the following directions:-

- 1. The demand draft will be prepared in the name of 'The Chairman, Committee - GFIL' and the account number is 55024544491.*
- 2. The expenses incurred on auction to be defrayed by the committee on the demand being raised by the Income Tax Department.*
- 3. Let 30 days' notice be issued in the advertisement. Prayer to reduce the period is hereby declined. Advertisement be issued for auctioning the property in national newspapers having wide circulation in the country as well as in the local newspaper.*
- 4. TDS need not be deducted at this stage.*
- 5. The Income Tax Department, in any case to ensure that auction takes place at an early date.'*

Copy of the order-dated 25.09.2019 as passed by this Hon'ble Court is annexed herewith as ANNEXURE A-3.

- d) That from the perusal of the above reproduced directions as given by this Hon'ble Court, it becomes apparent that for conducting the auction of the properties, it was incumbent upon the Income Tax Department to publish an advertisement in national newspapers having wide circulation in the country in addition to advertisement being given in a local newspaper as well. It was further mandatory for the department to give 30 days' notice in the advertisement for the proposed auction.
- e) That thereafter the Income Tax Department issued an advertisement dated 10.05.2022 in one Hindi language daily newspaper namely 'AMAR UJALA' informing therein regarding the open auction of the two properties of the Golden Group of Companies to be held on 09.06.2022 at 11:00 A.M. in Aayakar Bhawan, Sector-2, Panchkula (Haryana). The reserved price of the Agricultural Land in Village Jaswant Garh, Panchkula was mentioned as Rs. 36,15,50,000/- (Thirty Six Crore Fifteen Lac Fifty Thousand Only) & for the Semi constructed Building and Agricultural

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Land Village Billa, District Panchkula it was kept at Rs. 13,63,66,294/- (Thirteen Crore Sixty Three Lac Sixty Six Thousand Two Hundred Ninety Four). A copy of the advertisement-dated 10.05.2022 is annexed herewith as ANNEXURE A-4.

f) That pursuant thereto, the Tax Recovery Officer, Panchkula, on 11.05.2022, sought permission to upload the advertisement for auction of two properties of Golden Group of Companies i.e.

- (i) Agricultural Land in Village Jaswant Garh, Panchkula
- (ii) Semi constructed building and Agricultural Land Village Billa, District Panchkula.

Copy of the request letter dated 11.05.2022 of the Tax Recovery Officer is annexed herewith as ANNEXURE A-5.

g) That it will be most imperative to mention herein that the Applicant investors forum i.e.M/s Raiganj Consumer Forum flagged certain anomalies which had crept in the advertisement process by way of filing interim application 17.05.2022 before this Hon'ble Court i.e. immediately on the issue of the advertisement by the Income Tax Department.

Despite the issues being flagged by the said investor forum, the Income Tax Department chose to overlook the same and proceeded with conducting the auction.

h) That thereafter the said open auction took place on 09.06.2022 in the most arbitrary manner and the land detailed above i.e. Agricultural Land in Village Jaswant Garh, Panchkula (Haryana) was auctioned in favour of the following persons:-

- (i) Mr. Manish Sabharwal s/o Mr. Ajeet Rai Sabharwal,
- (ii) Mr. Ajeet Rai Sabharwal s/o Mr. Jagat Ram Sabharwal,
- (iii) Sh. Dhruv Sabharwal S/o Mr. Manish Sabharwal,
- (iv) Smt. Anjana Sabharwal w/o Mr. Ajeet Rai Sabharwal &
- (v) Smt. Kriti Sabharwal w/o Mr. Manish Sabharwal,

all resident of House No. 1019, Sector-27, Chandigarh, in equal share i.e. 1/5th share each. Subsequent thereto, Sale Deed no.1216/1 dated 12.07.2022 was executed in favour of the above named persons. Copy of the sale-deed dated 12.07.2022 is annexed herewith as Annexure A-6.

3. That in humble submission of the Applicants, the entire process as undertaken by the Income Tax Department, is in absolute contravention to the directions/guidelines as enunciated by this Hon'ble Court in its order dated 25.09.2019. The auction process

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has been conducted in the most cavalier manner, thereby causing grave prejudice to all the stakeholders and gravely undermining the endeavor to resolve the issue at hand. The Applicant, being the promoter shareholder, has much to loose because of the inept handling of the auction process by the Income Tax Department.

4. That the action on the part of the Income Tax Department smacks of malafide, arbitrariness & ineptitude and the entire auction process and all consequential proceedings deserves to be set-aside, inter-alia on the following grounds:-

- (i) That in the order dated 25.09.2019, this Hon'ble Court was pleased to observe that advertisement of the auction needs to be issued in 'national newspapers' having wide circulation in the country as well as in the local newspaper. In absolute disobedience to this direction of this Hon'ble Court, the Income Tax Department, for reason best known, issued an advertisement dated 10.05.2022 in one Hindi language daily newspaper namely 'AMAR UJALA' regarding the proposed auction of the two properties of the Golden Group of Companies. The said newspaper is a Hindi-language daily newspaper

having circulation in six states only
i.e. Uttarakhand, Himachal

Pradesh, Haryana, Punjab, Delhi NCR and Uttar Pradesh
and two union territories i.e. Chandigarh & Jammu &
Kashmir. The Applicant most humbly submits that this
Hon'ble Court had specifically directed that the
information qua the proposed auction needs to be given in
a 'National Newspaper' having pan India circulation. It is
safe to infer that the intent of this Hon'ble Court was to
give wide publicity to the impending auction process so
that bidders can be attracted from all parts of the country
for a competitive and transparent bidding could take
place, which in turn would fetch the best market price of
the properties under auction. The Income Tax
Department, in the most imprudent manner, chose to
conveniently overlook these specific directions of the
Hon'ble Court also and published the advertisement in
'Amar Ujala' only. One fails to understand the thought
process of the Income Tax department in ignoring the
mandate of this Hon'ble Court despite there being specific
and unequivocal guidelines/directions issued by this

Hon'ble Court. In humble submission of the Applicant, the very purpose of the open auction stood defeated when the Department chose not to give wide publicity to the auction process. The cascading effects that this non-adherence and disobedience have had on the bidding process have been highlighted in the paras to follow for the kind consideration of this Hon'ble Court. Thus, this misfeasance, in humble submission of the Applicant, is absolutely contemptuous. This act and conduct of the Income Tax Department, in humble submission of the Applicant, vitiates the entire auction process and the same deserves to be set-aside.

- (ii) That it will be most pertinent to mention herein that in the auction notice dated 10.05.2022, the property at serial no. 1 has been mentioned as '*Agricultural Land*' in Village Jaswant Garh, Distt. Panchkula (72.31 Acres). This description, in humble submission of the Applicant, is absolutely wrong and misleading. On the contrary, the said property falls in the 'Residential Zone' of the Panchkula Development Plan of the Kot-Behla Urban Complex. This issue, as per the Applicant, has far reaching

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ramifications on the pricing/reserved price as well as the final bid-price of the land in question. This fact assumes significance, as the Collector Rate for the agricultural land is far less than the land earmarked for residential purposes. By categorizing it as an agricultural land, the Income Tax Department has failed to derive the actual market cost of the land. The Applicant is annexing copy of the Development Plan of Kot-Behla Urban Complex as ANNEXURE A-7 for the kind and ready reference of this Hon'ble Court, which will clearly depict Village Jaswant Garg to be falling in the residential zone (marked as numeric 15 on the map). The Applicant is annexing copy of the Collector rate of Tehsil Panchkula for the year 2017-18 as ANNEXURE A-8 wherein R-Zone i.e. the residential zone in villages in and around JawantGarh have a collector rate of Rs. 1,00,00,000/- (One Crore). On the contrary, the Collector Rate for agricultural land is way lower as can be gathered from the Collector rate list of agricultural land in and around village Jaswant Garh. Thus in the humble submission of the by categorizing the land to be agricultural, the income tax department has

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failed to get the fair and correct price of the land under auction. This, in humble submission of the Applicant, makes the auction process untenable and makes a fresh auction imperative.

- (iii) That it is most imperative to mention herein that in exercise of the powers conferred by Section 7A of the Haryana Development and Regulation of urban Areas Act 1975 (8 of 1975), the Governor of Haryana, vide notification No. T & CP-STP(E)M-188/2020/1511 dated 25.11.2020, notified village Jaswant Garh as an 'Urban Area' of Panchkula District. A copy of the said notification dated 25.11.2020 is annexed herewith as ANNEXURE A-9. Thus once the said village stands declared as an urban area, the same could not have been auctioned as an agricultural land by the Income Tax Department. Again this lapse has huge financial ramifications and the Income Tax Department, in humble submission of the Applicant, has failed to sell the land at its full price. Thus the entire auction process needs to be set aside and fresh auction should be ordered keeping in mind the above elucidated facts.

- (iv) That still further, it will be most pertinent to bring it to the kind notice of this Hon'ble Court that fact that post notification No.T&CP-STP(E)M-188/2020/1511 dated 25.11.2020, Village Jawant Garh was brought within the extended municipal limits as well. This fact finds mention in the chart as uploaded on the website of the Department of Town and Country Planning, Govt. of Haryana. A copy of the said chart is appended here with as ANNEXURE A-10 for the kind and ready reference of this Hon'ble Court. This aspect, in humble submission of the Applicant, makes it amply clear that the Income Tax Department has gone ahead with the auction of the property belonging to the M/s Golden Forest (India) Ltd. without conducting any due diligence. It is thus safe to infer that had the Income Tax Department depicted the clear nature of the land i.e. auctioning it has a R-zone land falling within the municipal limit of District Panchkula, the auction would have easily fetched 2 to 3 times higher value than what the Department has been able to achieve. The Applicant, in order to demonstrate the actual value of the land situated in village Jaswant Garh, is annexing copy of a sale-deed

dated 27.06.2014 as ANNEXURE A-11, wherein the land in the same vicinity has been sold for a sum of Rs. 1.28 Crore per acre. Whereas in the auction as carried out by the Income Tax Department, the entire land measuring 72.31 acres has been sold for around Rs. 40 Crore only. This huge difference between the actual value of the land and the auction as conducted by the Department has crept in purely because of oversight on the part of the Department. One really fails to understand as to what was the tearing hurry for the department to go ahead with the flawed auction, without undertaking an exercise to conduct due diligence and survey, so as to garner the highest possible bid so that higher money could have been collected which in turn could have been distributed amongst the investors of the Company. Looked from any prism and measured with any yardstick, the act and conduct of the Income Tax Department, in humble submission of the Applicant, smacks of malafide and ineptitude. Thus the auction process, which is laced with callousness and incompetence, deserves to be set-aside by

this Hon'ble Court and a fresh auction needs to be conducted.

5. In light of the abovementioned facts & circumstances, it is quite evident that the outcome of the case will have a direct bearing on the Applicants. Therefore, it is requested that the Hon'ble Court may give the Applicants a chance to assist this court in the interest of justice.
6. That the present application is made bona fide and in the interest of justice. That if the present application is not allowed, repairable loss would be caused to the investors.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- (i) Allow the present application and Implead the present application as present case.
- (ii) Pass such other appropriate order/orders, as this Hon'ble Court may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS
IN DUTY BOUND SHALL EVER PRAY.

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FILED BY

(ADITYA SONI)

ADVOCATE FOR THE APPLICANT

Filed on:12.09.2022

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AFFIDAVIT

I, Aditya Kumar Sinha Son of Shri, Hritesh Kumar Sinha, Resident of House No. 643, Sector 8, Panchkula, Haryana presently at New Delhi, do hereby solemnly affirm and state as under:-

1. That I am Applicant in the present case and therefore competent to swear and affirm the present affidavit.
2. That the contents of the accompanying I.A.(s) have been explained to me in my vernacular and I have understood the same and state that the averments made therein are true and correct to my best of my knowledge and belief.
3. That the annexures alongwith the present applications are true copies of its respective originals.

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DEPONENT

VERIFICATION

Verified on the day of September, 2022, that the fact stated
in the above paragraphs of my affidavits are true and correct to my
knowledge and nothing has been concealed there from.

DEPONENT