

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
INTERLOCUTORY APPLICATION NO. _____ OF 2021
IN
TRANSFER CASE (CIVIL) NO.2 OF 2004

IN THE MATTER OF: .

The Securities and Exchange Board of India
...PETITIONER(S)

VERSUS

The Golden Forests (I) Ltd. ...RESPONDENT(S)

WITH

I.A. NO. 42747 OF 2021

APPLICATION ON BEHALF OF THE
APPLICANTS SEEKING ISSUANCE OF
APPROPRIATE DIRECTIONS IN THE PRESENT
TRANSFER CASE (CIVIL).

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE APPLICANT: PREETI SINGH

6.	<u>ANNEXURE A-5</u> Copy of the order dated 06.03.2019 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court	120-132
7.	<u>ANNEXURE A-6</u> Copy of order dated 07.05.2019 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court	133-156
8.	<u>ANNEXURE A-7</u> Copy of the order dated 25.09.2019 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court	157-167
9.	<u>ANNEXURE A-8</u> Copy of the order dated 14.01.2020 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court	168-181
10	<u>ANNEXURE A-9</u> A copy of the order dated 22.07.2014 in Civil Appeal no. 9833 of 2011 passed by this Hon'ble Court	182-205
11.	VAKALTNAMA	206-210
12.	PROOF OF SERVICE	- 211

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TO

THE HON'BLE CHIEF
JUSTICE OF INDIA AND HIS
COMPANION JUSTICES OF
THE SUPREME COURT OF INDIA THE HUMBLE APPLICATION
OF THE PETITIONERS
ABOVE NAMED.

MOST RESPECTFULLY SHOWETH:

1. That the present application is being filed by the applicant praying for issuance of appropriate directions in Transfer Case (Civil) No. 2 of 2004

presently being heard with Writ Petition(Civil) No. 188 of 2004 alongwith a bunch of other petitions, which is pending before this Hon'ble Court and next date has not been fixed as of yet.

2. That the brief facts of the present case are adumbrated hereinbelow for the ready reference of this Hon'ble Court:-

(i) That the litigation in the present case started with SEBI passing an order dated 09.01.1998, prohibiting the applicant-respondent from accepting/launching new schemes and alienating properties and subsequently filing a PIL WP 34 of 1998 before the Hon'ble Bombay High Court against the applicant-respondent. Meanwhile, in a domino effect, consequent to the action of the SEBI many claims/petitions were filed against the applicant-respondent by the investors in various jurisdictions across the country. Moreover, winding up proceedings

vide C.P No. 60 of 2001 were also initiated in the Hon'ble Punjab and Haryana High Court.

(ii) That SEBI approached this Hon'ble Court for transfer of all the cases to this Hon'ble Court whereupon, this Hon'ble Court vide order dated 12.09.2003, transferred all the cases to itself so that conflicting decisions do not arise in the case. It is submitted that vide order dated 19.08.2004, a committee was appointed by this Hon'ble Court with mandate to take in custody all the assets of the Company, call upon all the creditors to submit their claims and to realize the assets of the company. The relevant directions are reproduced hereinunder for the ready reference of this Hon'ble Court:-

“(i) The Chairman of the Committee at liberty to appoint CA to assist.

(ii) Committee to take in custody all assets of the company [GFIL] with the help of Police/DM, if required.

(iii) Committee to issue advertisements calling upon all 11 creditors to submit their claims before the Committee.

(iv) After realization of the assets and scrutinization of the claims the Committee to put up a report to this Court [in 6 months

(v) The Provisional Liquidator and the Bombay High Court receiver discharged and directed to handover all books, assets etc. to the Committee.

(vi) Committee may have to visit and function at different places.

(vii) FDR's to remain in the name of Provisional Liquidator till maturity and thereafter in the joint names of Committee members.

(viii) Provisional Liquidator not to alienate or encumber the receipts in any manner.

(ix) Committee granted liberty to approach this Court.

It is submitted that vide the above order Hon'ble Mr. Justice K.T. Thomas, a retired Judge of this Court, with an officer nominated by RBI and SEBI both as a Committee. On the inability expressed by Hon'ble Mr. Justice K.T. Thomas to head the Committee, this Hon'ble Court on 10th of September, 2004 appointed Mr. Justice R.N. Agarwal, who had been appointed as Provisional Liquidator by the Punjab and Haryana High Court in Company Petition No. 60/2001 as Chairman of the Committee along with an official each of the SEBI and RBI as members.

(iii) That the committee filed status report dated 10.08.2006 and sought further directions to

settle claims of the investors by sale of properties etc. The relevant part is reproduced hereinbelow for the ready reference of this Hon'ble Court:

"23. We have taken into consideration these status reports. As per these reports, the directions are sought by the Committee on the following points :

- A. Reconstitution of the Committee:
- B. Immovable properties - identification, taking possession and removal of encroachments:
- C. Directions regarding sale of properties:
- D. Setting aside sale of immovable properties:
- E. Various settlements by or on behalf of the respondent-company
- F. Directions regarding claims made by investors on their investments:
- G. Properties

of Golden Group: H. Action against Manzoor Ahmad Shah:

Whereupon this Hon'ble Court vide order dated 05.09.2006 gave elaborate directions for ensuring the realization of assets and settling of claims by identifying a cut-off date for the claims and issued further directions qua identification of properties and auction sale of properties. The relevant part of the order is reproduced hereinbelow for the ready reference of this Hon'ble Court:-

A. Reconstitution of the Committee:

"26. Justice R.N. Agarwal shall continue to be the Chairman of the Committee.

27. Counsel appearing for the SEBI and Mr. R.K. Jain, learned senior counsel appearing for the GFIL have no objection to such reconstitution of the Committee and the officials of the SEBI being relieved. RBI is not

a party before us. Accordingly, we relieve the officials of SEBI as well RBI from being members of the Committee and in their places S/Shri H.L. Randev and B.S. Bedi, former District and Sessions Judges in the State of Punjab, are appointed as members of the Committee."

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

"33. Accordingly, the Deputy Commissioner and other revenue authorities in 14 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

a party before us. Accordingly, we relieve the officials of SEBI as well RBI from being members of the Committee and in their places S/Shri H.L. Randev and B.S. Bedi, former District and Sessions Judges in the State of Punjab, are appointed as members of the Committee."

Xx xx .xx xx xX

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

"33. Accordingly, the Deputy Commissioner and other revenue authorities in 14 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 suit able 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.”

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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"

Xx xx xx xx xX

D. Setting aside sale of immovable properties:

"39. Insofar as the period prior to the appointment of provisional liquidator in the winding up petition in the Punjab and Haryana High Court and Delhi High Court is concerned, the Bombay High Court in its order dated 23rd November, 1998 had restrained the company, its subsidiary as well as directors not to dispose of the properties of the respondent company or its subsidiaries or its directors till further orders. It would be to the Committee to make appropriate recommendations to this Court regarding the status of sales made after the restraint order passed by the Bombay High Court on 23rd November, 1998. Any application putting a claim for settlement of properties after the restraint order passed by the Bombay High Court should be made to the Committee which shall be at liberty to

make appropriate recommendations to this Court for its consideration.

40. Insofar as the settlement/sales of immovable properties for the period between the appointment of provisional liquidator passed by the High Court of Punjab and Haryana and the restraint order dated 17th August, 2004 passed by this Court are concerned, any sales/settlement made contrary to the orders passed after the appointment of Provisional Liquidator by the High Court of Punjab and Haryana on 20th January, 2003 and the restraint order passed on 17th August, 2004 by this Court shall be ignored and the Committee would be at liberty to get hold of those properties by taking vacant possession thereof with the help of civil and police authorities and deal with them in accordance with the directions 16 already given."

Xx xx xx xx xX

E. Various settlements by or on behalf of the respondent-company:

"42. The directions issued in clause (a)(i) of point D regarding setting aside of immovable properties would ipso facto be applicable to the directions sought in clause (i) of Point E. (ii). The Committee shall be at liberty to take appropriate steps by file revisions, appeals, representation or avail of any other alternate remedy to deal with the surplus land declared by the Punjab Govt. under the Urban Land Ceiling Act or otherwise. (iii) Mr. Jain has filed a list of 110 companies which formed the group companies of GFIL dividing them into three categories (a) GFIL and its assets mentioned at serial Nos. 1-90 (b) Golden project and its associate companies mentioned at Serial Nos. 91-104, which do

not form part of the GFIL and (c) Societies and Trusts mentioned at Serial Nos. 105-110, which would also be outside the GFIL.

43. Mr. Jain, learned senior counsel for the Company, has no objection to the Committee taking over the properties and assets of the companies mentioned at serial nos. 1-90. The Committee would be at liberty to take hold of the properties of the companies mentioned at Sl. Nos. 1-90 as well and deal with them as a part of the properties of GFIL.

44. Insofar as the properties of the companies mentioned at Sl. Nos. 91-104 belonging to Golden Project and its associates and the properties of societies and trusts mentioned at Sl. Nos. 105-110 are concerned, Mr. Jain states that he would seek instructions and file an affidavit if they can

be taken as the properties of GFIL, within two weeks from today.”

Xx xx xx xx xX

F. Directions regarding claims made by investors on their investments:

“47. Counsel appearing for the Committee has stated before us that the claims have been received even after 20th May, 2005 and the Committee has included all the claims filed before it up to 10th of August 2006. Cut off date is fixed as 10th August, 2006. Hence, all claims filed before the Committee by the cut off date fixed, i.e., 10th August, 2006 be taken into consideration for disbursement of the assets of the GFIL after verification of the claims. The Committee should accept the claims of only those claimants, who have original authenticated receipts issued by the GFIL. The Committee shall categorise 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."

A copy of the order dated 05.09.2006 2006 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court is appended herewith as **Annexure A-1** (Pages 57-70)

(iv) That from 2004 till 2018, committee has barely managed to fulfill its objective. By its

own admission before this Hon'ble Court, recorded in the order dated 30.07.2018, there are 13,34,391 investors in GFIL whose principal amount comes to Rs 768.93 crores whereas there are 1,39,437 investors in Golden Projects Ltd whose principal amount comes to Rs. 130.58 Crores. Thus, the total number of investors is 14,73,828 and the total amount due towards both the companies is 899.51 crores as on 30.07.2018. It is pertinent to mention that in the order dated 30.07.2018, table containing data of GFIL was repeated twice by mistake. Later by order dated 05.09.2018, the abovesaid mistake was rectified and table pertaining to Golden Projects Ltd was inserted. Thus, the total liability of the applicant- respondent comes to approx 900 crores qua principal amount due towards 14,73,828 investors (total) and it is further admitted in the order dated

30.07.2018 by the Committee that Rs. 800 crores is available with the committee. This factum was pointed out by the investors committee that despite a large amount out of the total sum lying with the committee, the same is not being distributed and only a meager amount of 2 crores has been distributed to the investors. The relevant of the order is reproduced hereinbelow for the ready reference of this Hon'ble Court:-

"It was pointed out by Sh. Narender Hooda, learned counsel appearing on behalf of the investors that large amount of money is lying in deposit with the Committee which required to be distributed.

It was also stated by learned counsel appearing on behalf of the Committee that an amount of Rupees hundred crores has been attached by the Income Tax Department and apart from that



may be adopted by the Committee for disbursement of the 70% of the principal amount which was invested by each of the investors. Let the process of distribution be completed within a period of three months from today."

It is thus crystal clear that despite more than 90%
of the principal amount is lying with the committee
which could have at once cleared claims of almost
all of the investors but the same has not been
distributed. Moreover, this Hon'ble Court had also
engaged the services of experts viz. M/s Karvey
Investors Service Ltd for disbursement yet the
committee failed miserably in its objectives. It is
pitiable that while the family of the applicant-
respondent is living a life of penury, committee
and the other associates are being paid a huge
amount every month out of the funds of the
company.

- (v) That since the investors had pointed out failure on the part of the committee to obtain proper valuation of properties and to carry out timely auction, this Hon'ble Court had directed that current valuation of property be obtained before selling the property for which a team of Income Tax experts was appointed. The relevant part of the order is reproduced hereinbelow for the ready reference of this Hon'ble Court:-

"In the circumstances, we constitute a team of three members, namely, Sh. S.S. Rathore, Principal Chief Commissioner of Income Tax, Delhi, Sh. Sanjay Kumar Mishra, Principal Chief Commissioner of Income Tax-4, Delhi and Sh. Anup Kumar Dubey, Commissioner of Income Tax (OSD), Delhi, to submit a correct valuation of the 5 property. For identifying the particular property, the Collector shall nominate the Revenue Officer of the rank of Sub-Divisional Officer or

Tehsildar, of the concerned district and the valuation report shall be submitted to this Court. Let this exercise be completed and the plot numbers etc. shall also be furnished to this Court. Existing Committee may also submit the details of the property to this Court on affidavit as well as give a copy of the same to the team of Valuers appointed today so as to make the proper valuation of the property and also for its proper identification.

Copy of order dated 30.07.2018 2006 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court is annexed herewith and marked as **Annexure A-2** (*Pages 71-92*)

Copy of the order dated 05.09.2018 2006 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court is appended herewith as **Annexure A-3** (*Pages 93-107*)

(vi) That in fact, this Hon'ble Court had expressed its displeasure at the working of the committee vide order dated 25.02.2019 stating that compliance report filed by the committee is vague and not as per earlier directions issued by this Hon'ble Court. It is submitted that on 06.03.2019, committee pointed out difficulties in collection of data to remit the amount. Copy of the order dated 25.02.2019 2006 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court is appended as **Annexure A-4** (Pages 108-119).

Copy of the order dated 06.03.2019 2006 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court are appended herewith as **Annexure A-5** (Pages 120-132).

(vii) That on 07.05.2019, it was submitted by the committee that as on 30.04.2019 claim of only 1458 investors amounting to Rs. 1,71,45,536/-

have been settled and efforts are on to obtain bank account details of 970 claimants. It is thus crystal clear that despite the fact that major principal amount due towards the applicant-respondent is lying deposited and out of which, only a meager amount of Rs 2 Crores has been paid from 2006 upto 2019. The relevant part of the order is reproduced hereinbelow for the ready reference of this Hon'ble Court:-

"Learned counsel appearing on behalf of the Committee has placed before us, in a tabular form, status of claims as on 30.04.2019 as provided by M/s. Karvy Fintech Private Limited. With respect to S. No. 'A' payment has been made in 1458 claims of 70% of the total principal amount which comes to Rs.1,71,45,536/-, as ordered by this Court. S. No.'B' contains the claims found in database but bank details not yet uploaded by investor. Since the bank details have not been uploaded by 970

wrongly put
 these are
 part of 2500
 investors of Rangon
 Mukerji

claimants, it is agreed 12 by the learned counsel appearing on behalf of the Committee that amount to these 970 claimants shall be sent by way of account payee cheque at the addresses which are available. Let bank details at S. No. 'C' of 155 claimants be verified within a month and amount be remitted to their bank accounts within next fifteen days.

Xx xx xx xx xX

The Income Tax Department is directed to complete the valuation job on or before 30.06.2019 and submit a compliance report in the first week of July, 2019 along with the details of the valuation of the properties that has been done supported by an affidavit.

It is open to the learned counsel for the parties to file the requisite documents/reply etc.

With respect to the properties mentioned in Part 'A' of the properties mentioned in the third interim report dated 22.02.2019, 23 properties have been valued by Income Tax Authorities and they are as per Annexure-A enclosed herewith.

It is agreed to by the learned counsel that the said properties in Chart Annexure-A can be put to auction by the Income Tax Department. Let the Income Tax Department initiate the proceedings for sale of the aforesaid properties mentioned in Annexure-A of the third report on 'as is where as basis' and the amount be remitted to this Court."

A bare perusal of abovesaid order would show that IT department has obtained valuation of 23 properties whereas committee informed that bank details of 970 claimants have been found. Thus, this Hon'ble Court having found committee severely wanting in fulfilling its objective had then

tasked the IT Deptt. with selling the properties after proper valuation.

By 25.09.2019, IT Deptt. had also failed to carry out the auction of above 23 properties and informed this Hon'ble court that the process is still underway. On 14.01.2020, it was submitted by the IT Deptt. that only 5 properties have been sold, fresh valuation is going on in the case of 6 properties, on some properties there are third party rights and qua some properties demarcation is required to be done. Thus, it is evident that even the IT Deptt, is having a very hard time fulfilling its objective and has failed to live upto the expectation of this Hon'ble Court which is troublesome for the investors as well as the applicant-respondent because this approach cannot be allowed to go on endlessly. Thus, despite the various directions issued by this Hon'ble Court the committee has miserably failed

*Valuation
By I.T.*

to fulfill the objective for which it had been formed and has also not been in a position to carry out the valuation of the properties.. The relevant part of the order is reproduced herein below for the ready reference of this Hon'ble Court:-

"Learned senior counsel has pointed out that five properties (mentioned at S. Nos.1 to 5) have been sold. Let the process be completed and the amount be transmitted in the account of the Committee.

With respect to property at S. No.6, learned counsel has prayed for time to furnish the details as to rights of the occupants, the Committee also to look into this aspect. Thereafter, matter will be heard and appropriate orders will be passed with respect to the said property.

Let fresh date(s) of auctions be notified in respect of the 12 properties (mentioned at S. Nos.6 to 15) for which no bid has been submitted.

In respect of properties mentioned at S.Nos.7, 8, 9, 10, 11 and 22, let fresh valuation be done by the Valuation Committee.

With respect to properties at S.Nos.16 & 17, let the demarcation be done by the concerned Authorities, as early as possible and thereafter needful be done.

Let the encumbrances be ascertained with respect to property at S. No.18 and needful be done, as assured, as early as possible. With respect to the property at S. No.19, we direct the Government of Madhya Pradesh to cooperate and provide all necessary documents sought by the Income Tax Department, within a period of fifteen days from

the receipt of the request from the Income Tax Department along with a copy of this order.

With respect to properties at S.Nos.20 and 21, let the committee look into the matter and submit its opinion as to the nature of the rights and whether the matter is covered by the orders passed by this Court. With respect to property at S.No.23, let the Bank charge be specified. The Committee also to submit its opinion in this regard.”

Copy of order dated 07.05.2019 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court is annexed herewith and marked as **Annexure A-6 (133-156)**.

Copy of the order dated 25.09.2019 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble Court is annexed herewith and marked as **Annexure A-7(157-167)**.

Copy of the order dated 14.01.2020 in Transfer Case (Civil) No. 2/2004 passed by this Hon'ble

Court is annexed herewith and marked as **Annexure A-8(168-181)**.

3. That a perusal of the orders of this Hon'ble Court from 2004 onwards would show that committee has utterly failed in its objective and purpose. The committee has been seized of the matter for almost 17 years now (with new members coming on board and old ones leaving) while the litigation has been on from 1997 for almost 23 years but there is no end to the woes of the applicant respondent as the committee seems to be headed nowhere with no end in sight and it doesn't even seem probable that committee would be able to achieve its mandate even many years down the line. Till date, committee has not been able to settle claims of even a fraction of investors (less than 3000 as per data available with the applicant) out of a total of 14,73,828 investors while the amount distributed

is not even 2 Crores out of the total available 800 crores.

4. That in the meantime, applicant and his family have gone through very hard times and have lost everything besides suffering ignominy and humiliation though till date neither any conclusive evidence has come on record that there was anything wrong with the working of the applicant-respondent nor any illegality has been established. Be that as it may, 3 family members have died in judicial custody, Late Sh.A.L Syal died on 19.01.2010 in judicial custody, Late Smt. Neena Syal died on 31.10.2010 in judicial custody (she was suffering from 4th stage cancer) and Late Sh. R.K Syal died on 06.04.2011 in judicial custody. It is pertinent to mention here that the applicant-respondent is a major shareholder to the tune of 78% but he and his family comprising of 2 children (aged 10 years and 1-1/2 years) are living

a life of penury despite there being huge assets in their name. It is also appropriate to add here that maternal aunty of the applicant-respondent namely Pamela Syal, who was Director at the time when the present litigation had started, has also suffered incarceration for nearly 14 years. She is now 70 years old and due to the rigors of jail life, she has lost health to the extent that she is made to undergo dialysis daily from the past 2 years for her kidneys to work properly. It is submitted that 3 generations of the family have suffered tremendously but there seems to be no light at the end of the tunnel. The family has been just waiting patiently and had been hoping for a peaceful end to this whole litigation having full faith in the judiciary and this august institution but the working of the committee has shattered their hopes. Now with full faith in the majesty of this Hon'ble Court to do substantial justice, the present application is being filed with great hopes

and high expectations that a chance may also be given to the applicant-respondent to prove his bonafide and credentials.

5. That it is thus evident that the committee has outlived its purpose since it hasn't been able to do any justice with the task assigned to it. It is important to bring to the notice of this Hon'ble Court that the applicant-respondent has a land bank of 10,000 acres across the country and the assets of the applicant-respondent at the current valuation would be many times over the liabilities. Thus, there is no legal or other justification to deny the applicant-respondent access to his unencumbered assets after satisfaction of the claims of the investors rather it is a fundamental right of the applicant-respondent under Article 21 of the Constitution of India.

*Should
be closed*

6. That the property worth thousands of crores is laying waste which could have been put to great economic use benefitting not only the applicant-respondent but also public at large besides being of huge economic advantage to the Country by establishing industrial corridors or putting it to any other economic purpose.
7. That this is a classic example of latin maxim "Qui iustitiam moratur iustitiam" (justice delayed is justice denied). It is submitted that without there being any final adjudication on the guilt or otherwise of the applicant-respondent, 3 family members have died in judicial custody, one is on death bed that too when the assets of the applicant-respondent are many times over the liabilities, which could easily be discharged, if correct approach coupled with timely action is taken. It is perplexing and tragic at the same time that despite such a huge sum lying deposited with the committee neither the claims have been settled

nor justice has been served to family of the applicant-respondent, who are made to feel like criminals but are actually living a painful and a deprived life despite the assets being many times the liabilities. It is pertinent to add here that the upcoming generation of the family had a desolate past and present and are now staring at a bleak future since they are being deprived of even their rightful share to the assets, which is a direct violation of Article 21 of the Constitution of India. This Hon'ble court in "Anil Rai vs State of Bihar" has equated "Qui iustitiam moratur iustitiam" with Article 21 of the Constitution of India. The relevant extract is reproduced thus:-

"12. The inordinate, unexplained and negligent delay in pronouncing the judgment is alleged to have actually negated the right of appeal conferred upon the convicts under the provisions of Code of Criminal Procedure.

It is submitted that such a delay is not only

against the provisions of law but in fact infringes the right of personal liberty guaranteed by Article 21 of the Constitution of India. Any procedure or course of action which does not ensure a reasonable quick adjudication has been termed to be unjust. Such a course is stated to be contrary to the maxim "Actus Curiae Neminem Gravabit", that an act of the Court shall prejudice none

12. The inordinate, unexplained and negligent delay in pronouncing the judgment is alleged to have actually negated the right of appeal conferred upon the convicts under the provisions of Code of Criminal Procedure. It is submitted that such a delay is not only against the provisions of law but in fact infringes the right of personal liberty guaranteed by Article 21 of the Constitution of India. Any procedure or course of action which does not ensure a reasonable quick

adjudication has been termed to be unjust. Such a course is stated to be contrary to the maxim "Actus Curiae Neminem Gravabit", that an act of the Court shall prejudice none"

Xx xx xx xx xX

14. It has been held time and again that justice should not only be done but should also appear to have been done. Similarly, whereas justice delayed is justice denied, justice withheld is even worst than that. This Court in *Madhav Hayawadanrao Hoskot v. State of Maharashtra* : 1978 (3) SCC 544, observed that procedure contemplated under Article 21 of the Constitution means "fair and reasonable procedure" which comports with civilised norms like natural justice rooted firm in community consciousness-not primitive processual barbarity nor legislated normative mockery. Right of appeal in a

criminal case culminating in conviction was held to be the basis of the civilised jurisprudence. Conferment of right of appeal to meet the requirement of Article 21 of the Constitution cannot be made a fraud by protracting the pronouncement of judgment for reasons which are not attributable either to the litigant or to the State or to the legal profession. Delay in disposal of an appeal on account of inadequate number of Judges, insufficiency of infrastructure, strike of lawyers and the circumstances attributable to the State is understandable but once the entire process of participation in justice delivery system is over and only thing to be done is the pronouncement of judgment, no excuse can be found to further delay for adjudication of the rights of the parties, particularly when it affects any of their rights conferred by the Constitution under Part-III

Xx xx xx xx xX

19. It is true, that for the High Courts, no period for pronouncement of judgment is contemplated either under the Code of Civil Procedure or the Criminal Procedure Code, but as the pronouncement of the judgment is a part of justice dispensation system, it has to be without delay. In a country like ours where people consider the Judges only second to God, efforts be made to strengthen that belief of the common man. Delay in disposal of the cases facilitates the people to raise eye-brows, some time genuinely which, if not checked, may shake the confidence of the people in the judicial system. A time has come when the judiciary itself has to assert for preserving its stature, respect and regards for the attainment of the Rule of Law. For the fault of a few, the glorious and glittering name of the judiciary cannot be permitted to

be made ugly. It is the policy and purpose of law, to have speedy justice for which efforts are required to be made to come to the expectation of the society of ensuring speedy, untainted and unpolluted justice.”

Applicant-respondent has been suffering litigation since 1997 and there is no foreseeable end to the woes of the applicant-respondent. The family of the applicant-respondent has lost 3 generations in this cantankerous litigation and many down the line may suffer the same fate if this goes on like this without any tangible and concrete solution. Any further delay to handover the unencumbered assets to the applicant-respondent after settling all the claims is a momentous negation of this principle and is a violation of Article 21 of the Constitution of India since Applicant-respondent is equally entitled to a life of dignity as like any other ordinary citizen of India.

8. That the Hon'ble High Court of Punjab and Haryana in Company Petition No. 115 of 2002 case titled "The Plantation Investors Protection Society (Regd) vs. Golden Projects Ltd. and another" had made some poignant observations regarding the tardy pace of working of the committee vide order dated 31.07.2015. It is submitted that vide order dated 15.12.2010, the Hon'ble Punjab and Haryana High Court had assigned the task of sale of properties of Golden Projects Limited also to the committee appointed by this Hon'ble Court vide order dated 19.08.2004. It is mentioned in the order dated 31.07.2015 that the committee has been assigned a very heavy task of selling the properties of Golden Forests (India) Ltd and 2 of the members of the committee have attained the age of 89 and 84 years, thus it would not be appropriate to permit the committee to continue with the management and sale of the properties

Stayed
by SC

imploding
de-conditioned

belonging to the Golden Projects Ltd. It is further mentioned in the order dated 31.07.2015 that no steps have been taken to identify the properties of Golden Project Ltd except 2 properties since the passing of the order dated 15.12.2010 and the committee did not care to seek confirmation of sale of even these 2 properties.

The Hon'ble High Court of Punjab and Haryana also noticed the plight of the investors that despite litigation being pending since a decade, investors have not been able to recover their hard earned money. Thus, it is quite evident to a reasonable mind and more resonantly to a judicial mind that committee has not done justice to the task assigned to it and the faith reposed in it by the Constitutional Courts of the Country.

9. That at this stage applicant craves for kind indulgence of this Hon'ble Court to take a holistic

view and to balance the interests of the parties and to secure substantial justice. It is thus proposed by the applicant-respondent :-

- a) That the present committee may be disbanded and IT Deptt., which is tasked with carrying the valuation of properties and auction sale of the immovable assets be stopped forthwith.
- b) That the applicant-respondent be allowed to sell the properties on "as is where is basis" and to deposit the remaining due amount in this Hon'ble Court because the applicant-respondent and his family are the best persons to know the real worth of each of their properties, their locational advantage/disadvantage, their pros and cons qua business and commercial ventures, so the family is ideally suited to determine which property would be easier to sell or not and so on and so forth. Therefore, it is submitted that the family would be

He must disclose the properties

the best person to dispose of the properties owing to their knowledge of the real estate business and market and their long standing association with the Company, which they have built with their own hands. Needless to add that in case the applicant-respondent is able to accomplish what he is proposing, which he is quite sanguine of achieving, the family would also be able to restore some of their lost prestige. The applicant-respondent does not want that shadow of past happenings should keep lurking and haunting their next generation as well and sincerely wishes to settle claims of all the investors to bring a peaceful and pleasing end to this whole nightmare to give a clean slate to the future generation.

- c) That the applicant-respondent is the majority shareholder to the tune of 78% and the rest of the shareholding to the tune of 22% is with the family members of the applicant-respondent, who have

*not
with ROC*

given full authority to the applicant-respondent to move the present application and to deal with the properties in the manner aforestated. Thus, the applicant-respondent has full mandate from all the shareholders to make this proposal and to act in consequence, thereof.

- d) That this Hon'ble Court has already identified 23 properties to begin with for sale etc. The applicant - respondent submits that first of all they may be permitted to sell few out of identified properties (23) and the properties situated in Mohali District, Punjab, at circle rates or other rates as deemed appropriate by this Hon'ble Court subject to the control, approval and directions of this Hon'ble Court. It is submitted that one nominee of the Golden Forests Investors Society may also be brought on board to monitor the whole process to protect the interests of the Investors.

*Mr. Leal
Surplus*

- e) That since, the principal liability of the applicant-respondent is approx 900 crores qua all the investors (800 crores already with the committee not distributed yet), a lump sum amount be fixed by including an additional element to be paid to all the investors qua the compensation (Interest on Investment), which amount shall be deposited by the applicant-respondent within a period of 3 months from date of the order.
- f) That the basis for fixing an additional element to be paid to all the investors qua the compensation (Interest on Investment), may be taken from the interest awarded during winding up proceedings. It is submitted that since qua the applicant-respondent, winding-up proceedings were started in the year 2001 and the company is not in operation anymore since then, a fixed interest (4 %) can be awarded that for a period of 1.5 years (maximum) from the date of initiation of winding up

proceedings as mandated by the Companies Act. Keeping this salutary principle in mind, the winding up having been initiated in 2001 before the Hon'ble Punjab and Haryana High Court, a fixed interest (4%) may be considered by this Hon'ble Court. It is also appropriate to add here that similar approach has been adopted by this Hon'ble Court in the case of "Securities and Exchange Board of India vs. Sahara India Real Estate Corp. Ltd. & Ors." in Civil Appeal no. 9833 of 2011 where respondents were allowed to transfer, sell on encumber properties reduced at most by 5% of estimated value and deposit the amount with the SEBI.

A copy of the order dated 22.07.2014 in Civil Appeal no. 9833 of 2011 is appended herewith as **Annexure A-9(182-205)**.

- g) That furthermore, such One Time Settlement (OTS) methodology is also sanctioned by law and is in

vogue in Banking Industry where once an account becomes Non-performing Asset (NPA), no further interest is to be charged. It is pertinent to mention that such OTS is generally allowed at 70% of principal amount sometimes leaving the interest altogether. The basis of this principle is that once a company is undergoing winding up proceedings or an account has become NPA, they are not generating any income or revenue, so it would be imprudent and economically/practically unwise to expect them to generate any income/interest. That was the reason that in the case of "Securities and Exchange Board of India vs. Sahara India Real Estate Corp. Ltd. & Ors." in Civil Appeal no. 9833 of 2011, for this Hon'ble Court to allow one time settlement principle. The applicant-respondent thus prays that similar approach/principle may kindly be applied here as well because the circumstances are exactly similar.

*Industries is
to pay only*

70%

h) That it is further suggested that such amount can be kept in an escrow account (maintained with a nationalized bank to earn interest in the name of Registrar, this Hon'ble Court) from where the claims of all the investors can be settled as and when the claimants are identified and verified, either by the present agency Karvy Fintech or by any other agency as deemed appropriate by this Hon'ble Court.

i) That once this is done, the rest of the properties of the applicant-respondent would become unencumbered and can be released back to the applicant-respondent, who shall then be free to deal with them as his free assets not encumbered by any liability;

j) That so far as the issue of surplus land in concerned which finds mention in the order dated 05.09.2006, the same has become infructuous now, in view of the fact that the central law viz. The

To hold
properties
by paying
only 4% but
at 70% more
OTS

Urban Land (ceiling and regulation) repeal act 1999
was notified way back on 22.01.1999 and was notified for states of Haryana and Punjab from 11.01.1999 with the rest of the States adopting it later. The relevant part of order dated 05.09.2006 is reproduced thus:-

“41. The following directions are sought by the Committee:

- i. decide the legality and validity of thousands of settlements alleged to have been entered into with the Respondent Company under the Resolution dated 5th December, 2000.
- ii. deal with the surplus land declared by the Punjab government under the Urban Land Ceiling Act or otherwise; and
- iii. issue appropriate orders and directions regarding prop”

It is very apt to mention here that the local laws as applicable to the respective states where applicant

holds land banks have also been amended by the respective States retrospectively to exempt the land for specified purposes like Industry, business, commerce etc. from the operation of the ceiling acts. Such amendments were carried out in the States of Punjab (Punjab Land Reforms Act) and Haryana (Haryana Ceiling on Land Holdings Act) in the year 2011 and 2012 respectively. Thus, this issue does not survive anymore when the same has been given a quiet burial by the legislature. However, it is incomprehensible that the State has still been raking up this issue time and again, without any justification at all to delay the settlement and hamper the closure. Bringing in any obstruction on that count is prejudicial not only to the applicant-respondent but also to the investors since more is the delay, more injustice it would heap upon both. Thus, there is no legal bar before this Hon'ble Court not to treat the whole land bank of the petitioner for the purpose of

settling the claims of the investors. Though, it is suggested that the amount of liabilities that remain on the applicant-respondent can very well be satisfied from a very limited portion of the other immovable assets, if the proposal of the applicant-respondent is accepted. Needless to state that a huge time has been lost in settling the claims when the liabilities are only a small fraction of the valuation of the assets. Hence, the present interlocutory application, for the issuance of appropriate directions and for, the grant of necessary reliefs.

10. That not only would this allow settlement of all the claims by the investors but also put an end to unnecessary and futile litigation which otherwise may go on endlessly. This in the humble opinion of the applicant-respondent would be the best possible solution in the current scenario taking

care of the interests of all the parties and doing substantial justice to all.

11. That the applicant's present application shall not adversely affect the interest of any of the existing parties and shall not cause prejudice to any of them.
12. In view of the facts and circumstances stated herein above, the applicant herein respectfully prays that this Hon'ble Court may issue appropriate directions as prayed for to help bring closure to the pending litigation going on for 23 years without any end in sight, by accepting the proposal of the applicant-respondent which intends to balance and secure the interests of all the parties.

P R A Y E R

In view of facts and circumstances, stated hereinabove, it is, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- a. Accept the proposal of the applicant as suggested in Para 9 and pass appropriate directions in this regard;
- b. Pass any such of further order(s) that this Hon'ble Court deems fit in the facts and circumstances of the present case;

FILED BY


PREETI SINGH

Counsel for the Applicant/*Respondent*
13, Babar Road, Bengali Market,
New Delhi - 110001,
preetisingh1324@gmail.com

Place: New Delhi (O) 011-23312991 (M) 9312411311,
Date: 19/03/2021

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
IA NO. OF 2021**

**IN
TRANSFER CASE (CIVIL) NO. 2 OF 2004**

IN THE MATTER OF:

The Securities and Exchange Board of
India

.....Petitioner

VERSUS

The Golden Forests (I) Ltd.
Respondents

AFFIDAVIT

I, Nikhil Kant Syal age about 39 years S/o late Sh. R.K. Syal R/o 573, Sector-12, Panchkula, Haryana, Majority shareholder and son of the Late Chairman-cum-Managing Director of Golden Forests India Limited, presently at New Delhi, do hereby solemnly affirm and declare as under:-

1. That I am the applicant in the abovementioned matter and as such I as well conversant with the facts and circumstances of the case and hence I am competent to swear this present affidavit.
2. That I have read the accompanying application on behalf of the applicants seeking issuance of appropriate directions in the present transfer case understood the contents thereof. The facts stated therein are true and correct to the record of the case, which I believe to be true.
3. That the annexures enclosed with the application are true and typed copies of their originals documents.
4. That the contents of the application are true and correct to the best to the best of my knowledge and belief, no part of it is false and no material has been concealed therefrom.

Nikhil . K. Syal

DEPONENT

VERIFICATION:-

Verified at New Delhi on this the 18th day of March 2021 that the contents of my aforementioned affidavit are true and correct to the best of my knowledge and belief, no part of it is false and no material has been concealed therefrom.

Nikhil . K. Syal

DEPONENT

Amendement A 1

ITEM NO.1

COURT NO.4

SECTION XVIA

57

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

I.A. NOS.28, 36, 41, 42, 43, 44, 45, 46 & 47-49 and IA No. 50 in IA No. 33 IN TRANSFER CASE(CIVIL.) NO. 2 OF 2004

THE SECURITIES & EXCHANGE BD. OF INDIA Petitioner(s)

VERSUS

THE GOLDEN FORESTS (I) LTD. Respondent(s)

(For directions, intervention, stay, clarification and/or modification of the order dated 19.8.2004, impleadment, modification of Court's order dated 17.8.2004, filing of summary of records and office report)

[For urgent direction]

WITH I.A. Nos.5, 6, 7-11, 13, 14-15, 16-18, 19-22 and 23-24

in T.C.(C) NO.68/2003

For directions by the Committee appointed by this Hon'ble Court, directions, impleadment, exemption from filing O.T. and impleading party and office report)

With

IA No. 4 in WP(C) No. 188/2004 (for urgent directions and office report)

Date: 05/09/2006 This Matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. Altaf Ahmed, Sr. Adv.
Mr. Bhargava V. Desai, Adv
Mr. Rahul Gupta, Adv.
Ms. Varuna Bhandari Gugnani, Adv.
Mr. Rameshwar Prasad Goyal, Adv

In IA 23 Mr. Harpal Singh, in person.

For the Committee Ms. Suruchii Aggarwal, Adv
Mr. Prashant Chouhan, Adv.

For Respondent(s) Mr. S.K. Passi, adv.
Ms. Naresh Bakshi, Adv.

For Drive-in Tourist Resorts Pvt. Ltd.

Mr. Alok Gupta ,Adv
 Mr. Ranjan Mukherjee ,Adv
 Mr. N.R. Choudhury, Adv.
 Mr. Somnath Mukherjee, Adv.
 Ms. Kiran Suri ,Adv
 Ms. Minakshi Vij ,Adv
 Mr. Ugra Shankar Prasad ,Adv
 Mr. Abhijit Sengupta ,Adv
 Mr. K.C. Dua ,Adv
 Mr. Subramonium Prasad ,Adv
 Mr. G. Ramakrishna Prasad ,Adv
 Mr.Khwairakpam Nobin Singh ,Adv

For intervenor(s)

Mr. M.C. Dhingra ,Adv
 Mrs. V.D. Khanna, Adv.

for M/S I.M. Nanavati Associates , Adv
 Mr. Aditya Sharma, Adv.
 Mr. K.S. Rana ,Adv
 Ms. Chitra Markandaya ,Adv
 Mr. B. Sridhar, Adv.

M/S. K.Ramkumar & Associates ,Adv
 Mr. Makarand D.Adkar, Adv
 Mr. Vijay Kumar, Adv.
 Mr. Vishwajit Singh ,Adv
 Mr. Bimal Chakraborty, Adv.
 Mr. B.K. Pal, Adv.
 Ms. Sunita Sharma, Adv.
 Mr. S.K. Sabharwal, Adv.

State of Punjab

Mr. R.K.Rathore, AAG PB
 Mr. Arun K. Sinha, Adv.

State of Uttaranchal

Mr. Avatar Singh Rawat, AAG
 Mr. Jatinder Kumar Bhatia, Adv.

For Golden Forest

Mr. R.K. Jain, Sr. Adv.
 Mr. Ashok Kumar Singh, Adv.
 Mr. S.B. Meitei, Adv.
 Mr. Deepak Jain, Adv.
 Mr. Arjun Singh, Adv.
 Mr. Naresh Kumar Adv.
 Mr. Surender Sharma, Adv.
 Mr. S.N. Pandey, Adv.

For M.A. Shah

Mr. D.K. Garg, Adv.

For State of W.B.

Mr. T.C. Sharma,
 Ms. Neelam Sharma, Adv.

UPON hearing counsel the Court made the following

ORDER

1. On our direction the counsel appearing for the Securities & Exchange Board of India [SEBI] has filed the Note dated 4th of September, 2006 containing the factual history of the case along with the directions sought for by the Committee. There is no dispute on the facts stated to us by the SEBI in the aforesaid Note submitted by the SEBI, which are as follows:
2. M/s. Golden Forest (India) Limited, Chandigarh [for short "GFIL"], the respondent herein, was incorporated on 23rd February, 1987 and was granted certificate of commencement of business on 6th March, 1987. The main objects of the GFIL were, inter alia, development of agricultural land, social forestry farms, etc. From the commencement of the business, the GFIL had come out with several schemes for raising funds from the investors.

The GFIL had mobilized approximately Rs. 16 lakhs in 1987, Rs. 3 crores by 1990 and by the year 1997 it had mobilized about Rs.311 crores. It had also acquired about 7750 acres of land. It had mobilised an amount of Rs.1037 crores as on 31st December, 1997 on a capital base of Rs.10 lakhs only.

3. On the basis of investors' complaint, the Department of Company Affairs had found the GFIL violating various provisions of The Companies Act as well as accounting and auditing procedures.
4. On 26th November, 1997 by a press release as also public notice dated 18th December, 1997, SEBI had called upon the existing "Collective Investment Schemes" to submit information to SEBI and further informed that the

Regulations are under preparation and till that time no further schemes are to be sponsored.

5. Thereafter SEBI conducted survey on various collective investment schemes floated by different persons including the respondents. On the basis of the survey reports, SEBI issued order dated 9th January, 1998 to the GFIL under

Section 11B read with Section 11 of The Securities & Exchange Board of India Act [for short "the SEBI Act"] directing it not to mobilise any further funds from the investors and restrained it from selling, assigning or alienating any of the assets out of the corpus of the scheme. The GFIL however stationed the power of the SEBI to issue such directions.

6. Having received further complaints of sappropriation of funds and transfer of funds by GFIL, SEBI requested the Government to take action against the company-GFIL.
7. Due to non compliance of the aforesaid order dated 9th January, 1998 and to protect the interest of investors, SEBI filed a Writ Petition in public interest (PIL) being Writ Petition No. 344 of 1998 before the High Court of Judicature at Bombay, seeking certain restraint orders against the GFIL and its promoters/directors. SEBI, being the statutory administrative body to monitor the stock market, filed the aforesaid Writ Petition - WP No. 344/98 to protect the interest of various investors in GFIL since the GFIL failed and neglected to get itself registered under the SEBI (Collective Investment Scheme) Regulations, 1999 and to subject itself to regulating mechanism of SEBI under the powers conferred upon it under the SEBI Act.
8. The following directions were sought in the aforesaid writ petition before the High Court of Bombay:

"a) that this Hon'ble Court issue a writ of Mandamus or a writ in the nature of mandamus or any other writ, direction or order under Article 226 of the Constitution of India, directing Respondent No.2 to issue orders against all the Commercial Banks and/or Cooperative banks where Respondent No.1 has an account directing the Commercial Banks and/or the Cooperative Banks to restrain Respondent No.1 from withdrawing any funds from any of its accounts with the said commercial banks and/or Cooperative banks and /or any of their respective branches whether in India or abroad.

b) that pending the hearing and final disposal of this Petition this Hon'ble Court may be pleased to appoint any fit or proper person as a Special Officer or may appoint any agency as this Hon'ble Court may deem fit to operate the Bank accounts of Respondent No.1 to pay off those investors whose investments have matured or are likely to mature shortly;

c) that pending the hearing and final disposal of this Petition the Special Officer or agency as the case may be directed by an order of this Hon'ble Court to act in accordance with the directions given from time to time by this Hon'ble Court if this Hon'ble Court deems proper;

d) that pending the hearing and final disposal of this Petition, Respondent No.2 be ordered and directed to issue orders against all the Commercial Banks and or Cooperative Banks where Respondent No.1 has an account directing the Commercial Banks and/or the Cooperative Banks to restrain Respondent No.1 from withdrawing any funds from any of its accounts with the said Commercial Banks and/or Cooperative banks and/or any of their respective branches whether in India or abroad;

e) that pending the hearing and final disposal of this Petition, Respondent No.1 by itself or by its servants and agents be restrained by an order of this Hon'ble Court from receiving any monies from any investor under a new scheme or existing schemes, from operating any of its Bank accounts by withdrawing any monies from any of its bank accounts or from transferring, selling, assigning or alienating in any way the assets created out of the corpus of the Schemes of Respondent No.1 or from in any manner dealing with or disposing off any of its assets whether moveable or immovable tangible or intangible without the prior written permission of the Petitioner.

f) that pending the hearing and final disposal of this Petition this Hon'ble Court be pleased to direct Respondent No.1 to render its full and complete accounts in respect of the funds mobilized by Respondent No.1 under all its schemes, payments, if any, made to its investors, source of such payment and details of monies to be immediately repaid to the investors under all its schemes, and to hand over true copies of all books of accounts, bank statements and all banking documents, papers, vouchers, records, registers and all other documents containing details of the land, documents supporting the purchase or lease of various land including lien agreements entered into with the various unit holders from inception till date, in its custody possession and power to the Special Officer or Agency as the case may be.

g) for interim and ad interim reliefs in terms of prayer (b) to (f) above;

h) for costs of this Petition; and

i) for such further and other reliefs as the nature and circumstances of the case may require or as this Hon'ble Court may deem fit and proper."

9. The High Court of Bombay passed various orders from time to time protecting the investors' interest by way of injunction, restraint orders and also directed the SEBI and Reserve Bank of India [RBI] to constitute a Committee for taking stock of the situation. The Committee was constituted and report was submitted which affirmed various violations and manipulations and non-genuineness of the schemes of the

GFIL. On an order passed by the Bombay High Court, Credit Rating Information Services of India Ltd. [CRISIL] gave a high risk rating to the GFIL as Grade-V.

10. GFIL through the constituted attorney filed an affidavit dated 14th July, 1998 and informed that the GFIL and its subsidiaries had total assets worth Rs. 1395.41 crores as on 31st March, 1998; that its investment mobilized and outstanding are at Rs. 735 crores as on 7th of March, 1998 and; that they were confident of meeting all the liabilities and have also formulated a scheme of premature repayment.

11. The High Court of Bombay by its order dated 23rd of November, 1998, approved the scheme of premature repayment as proposed by the GFIL, with interim directions. The said order is extracted in extenso: " Heard the learned counsel for the parties.

2. It has been pointed out by the learned Counsel for the company that the company is at present holding land worth about Rs. 1,350 crores and is in a position to repay the amount of all the investors.

3. He, therefore, states that the company and its Directors shall give an undertaking to this Court on or before 30th November 1998 to the effect that the company is prepared to refund the amounts of the shareholders as well as the investors if they so demand and the demand application is received by the company and/or its Directors on or before 31st January 1999. He further states that public advertisements would be issued in leading newspapers all over the country on or before 15th December, 1998 for the said purpose. He further submits that genuineness of the demands/applications would be processed by the company or its Directors on or before 31st March 1999. Wherever the applications are found to be of genuine shareholder or investor, the amount invested by them would be refunded on or before 31st December 1999 with interest thereon @ 10% per annum.

4. In view of the aforesaid statements, the company and its Directors are directed to file necessary undertaking on or before 30th November 1998. It would be open to the respondent-company to apply to concerned authorities as also to this Court, after 31st March 1999, for sale of some part of the land for realizing the amount and paying it over to the investors who have demanded refund of amount/and or deposits.

5. The respondent-company and its subsidiaries as well as the Directors are directed not to dispose of any property of the respondent-company or its subsidiaries or its Directors till further orders.

6. Stand over to 1st April 1999.

7. Issuance of certified copy of this order is expedited."

[Emphasis supplied]

12. The GFIL assured the High Court that it was complying with the scheme of repayment as approved by the High Court and prayed for removal of restraint orders so as to withdraw the funds and make repayment. The High Court permitted the GFIL to negotiate sale of assets with a view to generate liquidity to pay off the liabilities but not to create any interest in the assets in favour of the proposed purchasers and should not enter into any agreement. The GFIL initially sought permission of the High Court of Bombay to sell off 19 properties but could not sell or negotiate and moved the High Court. Thereupon, the High Court Bombay appointed Hon'ble Mr. Justice M.L. Pendse (retired Chief Justice) as private receiver vide its order dated 16th February, 2000 to sell the 19 properties as given in Annexure to the affidavit filed by GFIL.

13. After the appointment of Justice Pendse as private receiver for disposing of 19 properties of the GFIL to repay to the investors, a number of writ petitions came to be filed in various High Courts along with applications for restraint against the sale of properties and other similar relief so as to frustrate the working of the private receiver appointed by the High Court of Bombay.
14. The SEBI, apprehending that the various writ petitions filed in the various High Courts may result in passing of conflicting orders, thus frustrating the payment to the investors, filed a petition in this Court, seeking transfer of Writ Petition No. 344/98 from the High Court of Bombay to its own board and stay of the proceedings in other High Courts in relation to the writ petitions. This Court vide its order dated 12th September, 2003, while allowing the transfer petition, transferred to this Court:
- (i) W.P. No. 344/1998;
 - (ii) all proceedings referred to in Annexure P-3 to the Transfer Petition;
 - (iii) all winding up Petitions (other than listed in Annexure P-3), if pending in any High Court; and directed
 - (iv) that no other Court except this Court to entertain any winding up proceedings relating to the GFIL; and
 - (v) the order to be communicated to all Courts.
15. The writ petition so transferred (being WP No. 344/98) from the High Court of Bombay was renumbered as Transferred Case No. No.2/2004.
16. In the High Court of Punjab and Haryana at Chandigarh a winding up petition being Company Petition No.60/2001 was filed in which Mr. Justice R.N. Agarwal (retired Chief Justice of the High Court of Delhi, now heading the Committee appointed by this Court) was appointed as the provisional official liquidator. The said Company Petition was also transferred to this Court and numbered as T.C. No. 68/2003. Similarly, other cases which were pending in various other High Courts were also transferred to this Court.
17. On 27th July, 2004 this Court passed a detailed order and dealt with IA Nos. 1, 9 and 28 of 2004 and passed certain interim directions and put forward a proposal for appointment of a Committee. The gist of the said order is as under:
- The Private Receiver appointed by Bombay High Court Justice (Retd) M.L. Pendse to submit status report to apprise the Hon'ble Court on the stage of proceedings.
- RBI, SEBI and other investors were granted two weeks time to make suggestions on the appointment of Central Committee to be nominated by this Court which should be entrusted with the responsibility of realising the

assets, distributing the receipts amongst the claimants after identifying their claims and investigating into siphoning off the funds by GFIL.

All pending applications directed to be listed for hearing on the next date.

IA No.1/2004 in TC No. 68/2003: The sale of 15 properties for which tenders were issued by Provisional Liquidator not to be finalized but continue to receive the tenders.

IA No.9 in TC No. 2/2004: All accounts of GFIL, its subsidiaries and associate companies as per list in IA No.1 were directed not to be operated either by themselves, their officers/agents unless permitted by this Court. RBI to issue circulars to all banks in the country.

IA No.28/2004 in TC No. 2/2004 by Drive-in-Tourist Resorts Pvt. Ltd.: The Resort-Applicant undertakes to make payment of rent @ Rs. 1 lakh per month for the period 1st August, 2003 till date to Provisional Liquidator within two weeks. Thereupon the PSEB to be informed for restoring Electricity to the Resort. And further payment by the applicant to Provisional Liquidator to continue on month to month basis by 15th of each month. This is in interim arrangement. IA not disposed off.

18. Thereafter the matter came up before this Court on 17th August, 2004 and again this Court passed an order for appointment of a Committee and dismissed the applications of various parties to be impleaded as parties. Certain restraint orders were passed against the GFIL, its Directors, Officers, employees, agents and/or power of attorney holders from creating any third party rights on any of the assets. The gist of the said order is as under:

All petitioners in Transfer Petitions to file their copies of writ petitions and copies be given to SEBI & RBI and other parties within a month.

The Company, its Directors, Officers, Employees, agents and / or power of attorney holders are restrained from alienating, encumbering, creating any third party rights or transferring in any manner whatsoever any of the assets of the company and/or their personal assets and restrained from making any withdrawals from any of the accounts.

Proposal for appointment of committee recorded.

All applications for intervention/impleadment filed by the depositors / investors stand dismissed.

The depositors/investors must submit their claims before the Committee which will be appointed by the Court who will consider their claims. This Court will then decide how the assets of the Company should be distributed.

No other Court or Forum or Tribunal any claim or application for return of monies or interest as this Court will deal with the same after realization of all assets. If any claims already filed, the same shall remain stayed.

It was further clarified that criminal cases are not covered by this Order and can proceed.

IA Nos. 1,5,9,6,30,7,14,15,32 in TC No.2/2004 dismissed as not pressed.

IA No. 25 in TC No.2/2004 dismissed as withdrawn.

IA No. 11 in TC No.2/2004 dismissed as infructuous.

IA No. 28 in TC No.2/2004: Time to deposit extended by four weeks. If not deposited within four weeks, the earlier order to stand vacated.

Matters directed to be listed on 19th August, 2004.

19. On 19th of August, 2004, this Court had appointed Hon'ble Mr. Justice K.T. Thomas, a retired Judge of this Court, with an officer nominated by RBI and SEBI both as a Committee, with various directions which are summarized as under:

(i)The Chairman of the Committee at liberty to appoint CA to assist.

(ii)Committee to take in custody all assets of the company [GFIL] with the help of Police/DM, if required.

(iii)Committee to issue advertisements calling upon all creditors to submit their claims before the Committee.

(iv)After realization of the assets and scrutinization of the claims the Committee to put up a report to this Court [in 6 months]

(v)The Provisional Liquidator and the Bombay High Court receiver discharged and directed to handover all books, assets etc. to the Committee.

(vi)Committee may have to visit and function at different places.

(vii)FDR's to remain in the name of Provisional Liquidator till maturity and thereafter in the joint names of Committee members.

(viii)Provisional Liquidator not to alienate or encumber the receipts in any manner.

(ix)Committee granted liberty to approach this Court.

20. On the inability expressed by Hon'ble Mr. Justice K.T. Thomas to head the Committee, this Court on 10th of September, 2004 appointed Mr. Justice R.N. Agarwal, who had been appointed as Provisional Liquidator by the Punjab and Haryana High Court in Company Petition No. 60/2001 as Chairman of the Committee along with an official each of the SEBI and RBI as members.

21. Thereafter the matter has been coming up before this Court from time to time and the Court has been passing certain directions.

22. The Committee headed by Justice R.N. Agarwal has, inter alia, filed a status report dated 10th of August, 2006 supplemented by the report dated 2nd of September, 2006 seeking certain directions.

23. We have taken into consideration these status reports. As per these reports, the directions are sought by the Committee on the following points :

- A. Reconstitution of the Committee:
- B. Immovable properties identification, taking possession and removal of encroachments:
- C. Directions regarding sale of properties:
- D. Setting aside sale of immovable properties:
- E. Various settlements by or on behalf of the respondent-company
- F. Directions regarding claims made by investors on their investments:
- G. Properties of Golden Group:
- H. Action against Manzoor Ahmad Shah:

24. We would take up these points one by one and pass appropriate orders on each of them separately.

A. Reconstitution of the Committee:

25. Reconstitution of the Committee for faster results has been sought with the Chairman and other members who have experience and interest in the field work and also sale of properties. Also a small police force including an officer with the rank of Deputy Superintendent of Police [DSP] is sought to be attached with the Committee. It was stated that the officials appointed by the SEBI and RBI as members of the Committee had little to contribute in matters of realization of properties. The Committee has suggested some names for induction in the Committee and also obtained telephonic consent from one of them.

26. Justice R.N. Agarwal shall continue to be the Chairman of the Committee.

27. Counsel appearing for the SEBI and Mr. R.K. Jain, learned senior counsel appearing for the GFIL have no objection to such reconstitution of the Committee and the officials of the SEBI being relieved. RBI is not a party before us. Accordingly, we relieve the officials of SEBI as well RBI from being members of the Committee and in their places S/Shri H.L. Randev and B.S. Bedi, former District and Sessions Judges in the State of Punjab, are appointed as members of the Committee.

28. It is submitted by Shri R.K. Jain, learned senior counsel appearing for the Company, that an officer of the GFIL should also be taken as a member of the Committee which prayer is rejected. However it would be open to the Committee, if it deems fit, to take assistance of any officer of the company to identify the companies and their assets.

29. The Committee has not suggested the names of any officer from the revenue or the police whom it seeks to associate with itself in discharging its work effectively. We leave it to the Committee to appoint one retired revenue officer as well as a police officer who it thinks to be of assistance.

30. The Chairman of the Committee shall determine the remuneration which is to be paid to the other members of the Committee as well as the officers so appointed. The Chairman of the Committee shall also be at liberty to requisition the services of a revenue official and a police officer from the Chief Secretaries of Punjab / Haryana who are directed to release the

officers, so requisitioned, to assist the Committee to effectively discharge the work entrusted to it.

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.

D. Setting aside sale of immovable properties:

38. The Committee has sought the following directions :

- (a) to issue directions for setting aside the illegal sales of properties of GFIL and its subsidiary and associate companies for the following periods contrary to the orders passed by this Court from time to time and to bring back the status quo ante as of the date of appointment of the Provisional Liquidator:

1. Period prior to the appointment of provisional liquidator in the

winding up petition in Punjab High Court / Delhi High Court and their respective restraint orders.

67

2. Period between the appointment of provisional liquidator and the date of restraint order dated 17th August, 2004 passed by this Court and the appointment of the present Committee; and

3. From 17th August, 2004 till date

39. Insofar as the period prior to the appointment of provisional liquidator in the winding up petition in the Punjab and Haryana High Court and Delhi High Court is concerned, the Bombay High Court in its order dated 23rd November, 1998 had restrained the company, its subsidiary as well as directors not to dispose of the properties of the respondent company or its subsidiaries or its directors till further orders. It would be to the Committee to make appropriate recommendations to this Court regarding the status of sales made after the restraint order passed by the Bombay High Court on 23rd November, 1998. Any application putting a claim for settlement of properties after the restraint order passed by the Bombay High Court should be made to the Committee which shall be at liberty to make appropriate recommendations to this Court for its consideration.

40. Insofar as the settlement/sales of immovable properties for the period between the appointment of provisional liquidator passed by the High Court of Punjab and Haryana and the restraint order dated 17th August, 2004 passed by this Court are concerned, any sales/settlement made contrary to the orders passed after the appointment of Provisional Liquidator by the High Court of Punjab and Haryana on 20th January, 2003 and the restraint order passed on 17th August, 2004 by this Court shall be ignored and the Committee would be at liberty to get hold of those properties by taking vacant possession thereof with the help of civil and police authorities and deal with them in accordance with the directions already given.

E. Various settlements by or on behalf of the respondent-company:

41. The following directions are sought by the Committee:

(i) decide the legality and validity of thousands of settlements alleged to have been entered into with the Respondent Company under the Resolution dated 5th December, 2000.

(ii) deal with the surplus land declared by the Punjab government under the Urban Land Ceiling Act or otherwise; and

(iii) issue appropriate orders and directions regarding properties of the subsidiary and associate companies including Golden Projects Ltd.

42. The directions issued in clause (a)(i) of point D regarding setting aside of immovable properties would ipso facto be applicable to the directions sought in clause (i) of Point E.

(ii). The Committee shall be at liberty to take appropriate steps by file evasions, appeals, representation or avail of any other alternate remedy to deal with the surplus land declared by the Punjab Govt. under the Urban Land Ceiling Act or otherwise.

(iii) Mr. Jain has filed a list of 110 companies which formed the group companies of GFIL dividing them into three categories (a) GFIL and its assets mentioned at serial Nos. 1-90 (b) Golden project and its associate companies mentioned at Serial Nos. 91-104, which do not form part of the GFIL and (c) Societies and Trusts mentioned at Serial Nos. 105-110, which would also be outside the GFIL.

68

43. Mr. Jain, learned senior counsel for the Company, has no objection to the Committee taking over the properties and assets of the companies mentioned at serial nos. 1-90. The Committee would be at liberty to take hold of the properties of the companies mentioned at Sl. Nos. 1-90 as well and deal with them as a part of the properties of GFIL.

44. Insofar as the properties of the companies mentioned at Sl. Nos. 91-104 belonging to Golden Project and its associates and the properties of societies and trusts mentioned at Sl. Nos. 105-110 are concerned, Mr. Jain states that he would seek instructions and file an affidavit if they can be taken as the properties of GFIL, within two weeks from today.

F. Directions regarding claims made by investors on their investments:

45. The following directions are sought

- (a) to decide upon the cut off date for entertaining claims
- (b) to accept claims for consideration of only those claimants who have original authenticated receipts issued by the respondent company;
- (c) to categorise the range of investment by depositors and treat the small, medium and big investors in separate categories;
- (d) not to permit entertainment of claims based on alleged deposit accepted by the Companies agents in the year 2001 till date, even after the closure of the business of the Company. No claim without clear proof of deposit of money with the company be directed to be considered:
- (e) to reject the claims of investors of Golden Projects Ltd. Since the investors were and are claiming to be under the impression that all the companies known as Golden Group of Companies belong to GFIL and are owned and managed by the Sayal family.

46. By an order dated 20th January, 2005 this Court had directed the Committee to issue advertisement fixing the cut off date which was extended by three months. The committee issued advertisement in 25 newspapers on 19th and 20th February 2005 inviting applications within three months of the said date.

47. Counsel appearing for the Committee has stated before us that the claims have been received even after 20th May, 2005 and the Committee has included all the claims filed before it up to 10th of August 2006. Cut off date is fixed as 10th August, 2006. Hence, all claims filed before the Committee by the cut off date fixed, i.e., 10th August, 2006 be taken into consideration for disbursement of the assets of the GFIL after verification of the claims. The Committee should accept the claims of only those claimants, who have original authenticated receipts issued by the GFIL. The Committee shall categorise 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.

G. Properties of Golden Group:

48. Committee has sought powers to investigate and ascertain the fund flow and acquisition of properties out of the investors' fund in GFIL and to authorize it to take possession of all such properties as in case of properties of GFIL. A further direction to hand over the possession of the Golden Group complex situated in Punjab, is sought under this point.

49. So far as the properties of the Golden Group, which can be clubbed with GFIL, is concerned, we have already passed appropriate directions on the applications filed in Court by the GFIL.

H. Action against Manzoor Ahmad Shah:

50. Mr. Manzoor Ahmad Shah [M.A. Shah], one of the investors, is in possession of certain flats at village Jarout, Tehsil Derabassi in District Mohali. He had filed CWP No. 693/04 in this Court, seeking a mandamus not to treat the properties under his occupation as the properties of the company as his claims have already been settled with the company. The petition was rejected on 5th January, 2005 and the following order was passed:

"As set out in the petition, this Court has appointed an Administrator of the golden Forests (I) Limited. The purpose is to see there is an equitable distribution amongst all the depositors and creditors. Preferential treatment to any particular depositors and creditors cannot be permitted. It is not open for the company to allot any premises to any particular party, prayer asked for therefore stands rejected. The petitioner will hand over the property to the Administrator if the Administrator has not already taken charge thereof. The writ petition stands dismissed."

51. It is apparent from the reading of the afore-quoted order of this Court that M.A. Shah could not be treated as a preferential depositor or creditor. The company was not at liberty to allot premises to any particular party. M.A. Shah was directed to handover the property to the Administrator if the Administrator has not already taken charge of the same. In spite of the said direction, M.A. Shah has not handed over the property to the Administrator. Mr. Shah is directed to handover the vacant possession of the property to the Committee forthwith and, in case he fails to handover the same within a period of fifteen days from today, the Committee shall be at liberty to approach the Deputy Commissioner, Mohali, to get the vacant possession delivered with the help of police force, if need be.

52. It is reported to us that M.A. Shah has parted with possession with a part of the property to Punjab College of Engineering and Technology [for short "the College"] for running hostel and a mess in the said flats.

53. The College is directed to report to the Committee to prove its title over the property and in case it has taken over possession from M.A. Shah, then the College is directed to handover the vacant possession of the same to the Committee and, in such case, the College would be at liberty to recover the money from M.A. Shah. Similarly, any other person who has taken possession of the property through M.A. Shah, shall also handover the vacant possession of the property to the Committee. The Committee is put at liberty to recover the vacant possession of such properties with the help of civil / revenue authorities within one month from today.

54. Applications filed by the settlers would now be dealt with by the Committee in view of the directions contained in this order.

55. IA Nos. 6/05, 16-18/05, 19/05, 20/05, 21-22/05, 36/05, 41-42/05, 46/05, 47-48/05, 23/06, 49/06

These applications are dismissed with liberty to approach the Committee for appropriate orders in accordance with the directions issued in this order.

56. IA 45 has been filed by Shri Tapas Kumar Khan seeking certain directions. He is directed to approach the Committee and the Committee shall pass appropriate orders. IA stands disposed of.

57. IA 50 is dismissed.

58. IA 4 in WP 188/2004
No orders. To be taken up with main case.

59. IA 44 is dismissed.

60. Thus, all the applications for impleadment / intervention / directions / clarification / modification stand disposed of accordingly.

(J.S. Rawat)

AR-cum-PS

(Kanwal Singh)

Court Master

Prachi Singh
| TRUE COPY |

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

71

WRIT PETITION(S)(CIVIL) NO(S).188 OF 2004

M/S. RAIGANJ CONSUMER FORUM

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

WITH

T.C.(C) No. 19/2005, T.C.(C) No. 24/2005, T.C.(C) No. 2/2004, T.C.(C) No. 1/2004, T.C.(C) No. 3/2004, T.C.(C) No. 10/2004, T.C.(C) No. 59/2003, T.C.(C) No. 60/2003, T.C.(C) No. 68/2003, T.C.(C) No. 69/2003, T.C.(C) No. 70/2003, T.C.(C) No. 71/2003, T.C.(C) No. 72/2003, T.C.(C) No. 73/2003, T.C.(C) No. 74/2003, T.C.(C) No. 76/2003, T.C.(C) No. 77/2003, T.C.(C) No. 78/2003, T.C.(C) No. 79/2003, T.C.(C) No. 80/2003, T.C.(C) No. 81/2003, T.C.(C) No. 58/2005, T.C.(C) No. 83/2003, T.C.(C) No. 84/2003, T.C.(C) No. 85/2003, T.C.(C) No. 86/2003, T.C.(C) No. 88/2003, T.C.(C) No. 89/2003, T.C.(C) No. 90/2003, T.C.(C) No. 91/2003, T.C.(C) No. 92/2003, T.C.(C) No. 93/2003, T.C.(C) No. 94/2003, T.C.(C) No. 49/2005, T.C.(C) No. 97/2003, T.C.(C) No. 50/2005, T.C.(C) No. 98/2003, T.C.(C) No. 51/2005, T.C.(C) No. 53/2005, T.C.(C) No. 101/2003, T.C.(C) No. 54/2005, T.C.(C) No. 102/2003, T.C.(C) No. 55/2005, T.C.(C) No. 103/2003, T.C.(C) No. 56/2005, T.C.(C) No. 104/2003, T.C.(C) No. 57/2005, T.C.(C) No. 105/2003, T.C.(C) No. 107/2003, T.C.(C) No. 109/2003, T.C.(C) No. 110/2003, T.C.(C) No. 111/2003, T.C.(C) No. 112/2003, T.C.(C) No. 115/2003, T.C.(C) No. 116/2003, T.C.(C) No. 117/2003, T.C.(C) No. 118/2003, T.C.(C) No. 119/2003, T.C.(C) No. 120/2003, T.C.(C) No. 121/2003, T.C.(C) No. 122/2003, T.C.(C) No. 123/2003, T.C.(C) No. 125/2003, T.C.(C) No. 126/2003, T.C.(C) No. 128/2003, T.C.(C) No. 130/2003, T.C.(C) No. 131/2003, T.C.(C) No. 132/2003, T.C.(C) No. 133/2003, T.C.(C) No. 134/2003, T.C.(C) No. 135/2003, T.C.(C) No. 136/2003, T.C.(C) No. 137/2003, T.C.(C) No. 138/2003, T.C.(C) No. 139/2003, T.C.(C) No. 140/2003, T.C.(C) No.

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T.C.(C) No. 199/2003, T.C.(C) No. 200/2003, T.C.(C) No.
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(C) No. 207/2003, T.C.(C) No. 208/2003, T.C.(C) No.
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(C) No. 258/2003, T.C.(C) No. 259/2003, T.C.(C) No.
260/2003, T.C.(C) No. 261/2003, T.C.(C) No. 262/2003,
T.C.(C) No. 95/2003, T.C.(C) No. 124/2003, T.C.(C) No.

146/2003, T.C.(C) No. 201/2003, T.C.(C) No. 215/2003, T.C.(C) No. 226/2003, T.C.(C) No. 227/2003, T.C.(C) No. 82/2003, T.C.(C) No. 154/2003, and MA 151/2018 in T.P. (C) Nos. 1-2/2004

O R D E R

Heard learned counsel for the parties at great length.

This court has passed an order on 9.5.2018 inviting further fresh bids. Pursuant thereto, advertisement was published in the newspapers namely the 'Indian Express', 'Hindustan Times' and 'Dainik Jagran'. Properties available for Sale - has been specified in Part-A; in Part -B 'Properties/lands under litigation before Court/Committee' has been detailed, in Part-C 'Surplus Land declared by the State of Punjab and Utrakhand' was mentioned and in Part-D - Properties/Lands yet to be identified (as per Dr. Nanavati's Report) was mentioned. All the properties were for sale.

It was submitted by the learned counsel appearing for the investors and the learned counsel appearing for the Committee appointed by this Court and others that valuation of the properties mentioned in the auction notice has not been done. It was pointed out that some

valuation was carried out in the year 1998 by one of the Chartered Accountants. The valuation made in the year 1998 or by Hawk Group cannot be relied upon for making auction of the property as the value of the property has gone very high since then.

After hearing learned counsel for parties at length, we are of the considered opinion that it is absolutely necessary to obtain the current valuation of the property which may be sold and only thereafter to proceed further with the sale of property.

It was pointed out by Sh. P.S. Narsimha, learned Additional Solicitor General appearing for the State of Punjab and Sh. K. Radhakrishnan, learned senior counsel appearing for the Income Tax Department, that the Income Tax Department has the proper valuers as well as the Indian Institute of Cost Accountant, as such for the purpose of valuation.

In the circumstances, we constitute a team of three members, namely, Sh. S.S. Rathore, Principal Chief Commissioner of Income Tax, Delhi, Sh. Sanjay Kumar Mishra, Principal Chief Commissioner of Income Tax-4, Delhi and Sh. Anup Kumar Dubey, Commissioner of Income Tax (OSD), Delhi, to submit a correct valuation of the

property.

For identifying the particular property, the Collector shall nominate the Revenue Officer of the rank of Sub-Divisional Officer or Tehsildar, of the concerned district and the valuation report shall be submitted to this Court. Let this exercise be completed and the plot numbers etc. shall also be furnished to this Court. Existing Committee may also submit the details of the property to this Court on affidavit as well as give a copy of the same to the team of Valuers appointed today so as to make the proper valuation of the property and also for its proper identification.

Concerned District Magistrate shall also assist the team of the Valuers to make the identification of the property for the purpose of its valuation and also as per Dr. Nanavati's reports if possible. The Committee appointed by this Court may also furnish the relevant data to this Court as well as to the team of the Valuers, so appointed.

It was also pointed out by the learned counsel appearing for the State of Punjab and Deputy Advocate General for the State of Uttrakhand that the surplus land declared by the State of Punjab and State of Uttrakhand

has also been included in the auction notice; the property declared surplus could not have been included in the auction notice for the purpose of sale as property of State Government which has already vested cannot be sold for the purpose of satisfaction of the debt if any incurred by the Golden Forest Group (GFG) and by others. We are of the prima facie opinion that the land that has been declared surplus and has vested in the State cannot be sold and consequently put to auction. There is some litigation about surplus land pending before the Court(s) including the one preferred by the Committee so as to seek declaration that property is not surplus property. Be that as it may, as the property has been declared surplus, prima facie without adjudicating conclusively upon said issue, it cannot be sold outrightly at this stage. We will take a final call upon this aspect at a later stage.

At present, we are not directing the valuation of the land that has been declared surplus by the State of Punjab and State of Uttrakhand. At the first instance, we want to obtain valuation report with respect to the properties mentioned in Part-A available for Sale and with respect to the property mentioned in Part B

'Properties/lands under litigation before Court/Committee' and also the property which can be identified out of Part-D. Let identification of Part-D property, if possible, as well as its valuation and also the fact that whether any part of it has been declared surplus be also reported to this Court.

In view of the aforesaid, we feel that it would not be appropriate to proceed any further with the auction notice that was so published. No bid has been offered pursuant to the advertisement. Hawk Capital (P) Ltd. has also not deposited the amount and has also withdrawn the bank guarantee. Be that as it may, what is the effect of the same and its consequence will be considered later. We have refrained to pass any order at this stage as the money is not in deposit and valuation has been ordered. The property can be auctioned only after fixing minimum price.

It was pointed out by Sh. Narender Hooda, learned counsel appearing on behalf of the investors that large amount of money is lying in deposit with the Committee which required to be distributed.

Learned counsel appearing on behalf of the Committee pointed out and submitted the following summary

of data of claims made by investors of Golden Forest India Ltd. (GFIL) as on 01.02.2017 and Golden Projects Ltd.(GPL) as on 01.02.2017, which are as under:-

**SUMMARY OF DATA OF GOLDEN FORESTS (INDIA) LTD.
AS ON 01-02-2017**

Bifurcation of Claims according to Deposit Amount

Sr.No.	Deposit Amount in Rs.	No. of Claims	Principal Amount	Amount Payable on Maturity
			(Rs. In Crores)	(Rs. In Crores)
1	1 - 1000	650888	52.59	6128.01
2	1001 - 2000	138852	25.69	1133.69
3	2001 - 3000	65073	17.95	229.80
4	3001 - 4000	35426	13.45	72.13
5	4001 - 5000	138937	68.98	770.31
6	5001 - 7000	35676	22.03	64.14
7	7001 - 10,000	115502	111.14	476.91
8	10,001 - 20,000	77523	125.35	287.04
9	20,001 - 30,000	37075	96.67	210.80
10	30,001 - 40,000	10395	38.64	71.39
11	40,001 - 50,000	17321	85.45	189.56
12	Above 50,000	11723	110.99	194.02
	Total	1,334,391	768.93	9827.81

**SUMMARY OF DATA OF GOLDEN FORESTS (INDIA) LTD.
AS ON 01-02-2017**

BIFURCATION OF CLAIMS ACCORDING TO DEPOSIT AMOUNT

Sr.No.	Deposit Amount in Rs.	No. of Claims	Principal Amount	Amount Payable on Maturity
			(Rs. In Crores)	(Rs. In Crores)
1	1 - 1000	650888	52.59	6128.01
2	1001 - 2000	138852	25.69	1133.69
3	2001 - 3000	65073	17.95	229.80
4	3001 - 4000	35426	13.45	72.13
5	4001 - 5000	138937	68.98	770.31
6	5001 - 7000	35676	22.03	64.14
7	7001 - 10,000	115502	111.14	476.91

8	10,001 - 20,000	77523	125.35	287.04
9	20,001 - 30,000	37075	96.67	210.80
10	30,001 - 40,000	10395	38.64	71.39
11	40,001 - 50,000	17321	85.45	189.56
12	Above 50,000	11723	110.99	194.02
	Total	1,334,391	768.93	9827.81

It was also stated by learned counsel appearing on behalf of the Committee that an amount of Rupees hundred crores has been attached by the Income Tax Department and apart from that approximately Rupees seven hundred crores is available for distribution to the investors.

As per number of claims received by the Committee, approximately nine hundred crores is the principal amount; first, we take care of the principal amount to be distributed amongst the investors. Amount of payment of interest/maturity value as assured shall be considered later after property is sold. In the circumstances, we direct that 70% of the principal amount be distributed out of the amount of Rupees seven hundred crores to each of the investors; whose claims have been received by the Committee. The number of claims have been mentioned in the aforesaid chart.

Since RBI has requested the Committee to engage

M/s. Karvey Investors Services Limited and as suggested by learned counsel appearing for the Committee as well as others also, we appoint M/s. Karvey Investors Services Limited; whose services may be adopted by the Committee for disbursement of the 70% of the principal amount which was invested by each of the investors. Let the process of distribution be completed within a period of three months from today.

Let the report of the Valuer be submitted. The rate prescribed by the Collector for the property be also furnished along with report within a period of two months from today.

There are certain other applications stated to be pending; they are also required to be looked into and decided. Let cases be listed for consideration of the pending applications on 16th August, 2018.

.....J.
[ARUN MISHRA]

.....J.
[S.ABDUL NAZEER]

NEW DELHI;
30TH JULY 2018.

81

ITEM NO.1

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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

M/S. RAIGANJ CONSUMER FORUM

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

T.C.(C) No. 19/2005 (XVI-A)

T.C.(C) No. 24/2005 (XVI-A)

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

T.C.(C) No. 1/2004 (XVI-A)

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MA 151/2018 in T.P.(C) No. 1-2/2004 (XVI-A)
(IA No.8286/2018-CLARIFICATION/DIRECTION)

Date : 30-07-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Petitioner(s) Mr. Rakesh Khanna, Sr. Adv.
Mr. B.H. Marlapalle, Sr. Adv.
Mr. Shantanu Shawmik, Adv.
Mr. A.K. Chowdhary, Adv.
Mr. Mike Desai, Adv.
Mr. Vinay Rajput, Adv.
Mr. Ajay Choudhary, Adv.
Mr. Ranjan Mukherjee, AOR
Ms. Drishti Rathore, Adv.

Mr. Tushar Mehta, ASG
 Mr. Bhargava V. Desai, AOR
 Mr. Akshat Malpani, Adv.

Mr. Somnath Mukherjee, AOR

Dr. Kailash Chand, AOR

Mr. Naresh Bakshi, AOR

Ms. Minakshi Vij, AOR

Mr. R. C. Kaushik, AOR

Mr. Ranjit Kumar, Sr. Adv.
 Mr. P.S. Patwalia, Sr. Adv.
 Mr. Neeraj K. Kaul, Adv.
 Mr. Aman Vachher, Adv.
 Mr. Ashutosh Dubey, Adv.
 Mr. Dhiraj, Adv.
 Mr. Abhishek Chauhan, Adv.
 Mr. Avishkar Singhvi, Adv.
 Mrs. Anshu Vachher, Adv.
 Mr. Arun Nagar, Adv.
 Mr. P. N. Puri, AOR

Mr. R.S. Hegde, Adv.
 Mrs. Farhat Jahan Rehmani, Adv.
 Mr. Chandra Prakash, Adv.

Mr. Alok Sangwan AAG
 Mr. Utkarsh Srivastava, Adv.
 Mr. Sunny Kadiyan, Adv.
 Dr. Monika Gussain, Adv.

Mr. Mishra Sourabh, Adv.
 Ms. Vanshaja Shukla, Adv.

For applicant

Mr. Narender Hooda, Sr. Adv.
 Mr. Simranjeet Singh, Adv.
 Mr. Vikas Saharan, Adv.
 Dr. Surender Singh Hooda, Adv.

Mr. Shyam Diwan, Sr. Adv.
 Ms. Anubha Agrawal, Adv.

For Respondent(s)

Mr. Siddhartha Chowdhury, AOR

Mr. Sandeep Sethi, ASG
 Mr. K. Radhakrishnan, Sr. Adv.
 Ms. Gargi Khanna, Adv.

Mr. Bhuvan Misra, Adv.
Mrs. Anil Katiyar, AOR

Mr. Naresh Bakshi, AOR

Mr. A. P. Mohanty, AOR

Mr. Arun K. Sinha, AOR

Mr. B. K. Pal, AOR

Ms. Chitra Markandaya, AOR

Mr. D. N. Goburdhan, AOR

Ms. Varsha Singh Choudhry, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. Kusum Chaudhary, AOR

Mr. Sanjeev Sen, Sr. Adv.
Mr. Gaurav Dhingra, Adv.
Mr. Piyush K. Roy, Adv.
Mr. Harpal Singh Saini, Adv.
Mr. Vikrant Yadav, Adv.
Mr. Sayan Ray, Adv.
Mr. M. C. Dhingra, AOR

Mr. Mohan Jain, Sr. Adv.
Mr. Vikram Jain, Adv.
Mr. S. Mishra, Adv.
Ms. Archana M., Adv.
Ms. Tanuj Bagga, Adv.

Mr. Surya Kant, AOR

Mr. Tara Chandra Sharma, AOR

Mr. Ugra Shankar Prasad, AOR

Mr. Somnath Mukherjee, AOR

Mr. Ranjan Mukherjee, AOR

Mr. Yash Pal Dhingra, AOR

Ms. Minakshi Vij, AOR

Mr. Ashok Kumar Singh, AOR
Mr. Shantanu Singh, Adv.
Mr. Surinder Dutt Sharma, Adv.
Mr. Meghsham S. Bhangle, Adv.
Mr. Murari B. Sharma, Adv.

Mr. Sarvagaya Walia, Adv.
Mr. Sanket Sharma, Adv.

Mr. K. S. Rana, AOR

Ms. Suruchii Aggarwal, AOR

Mr. Vishwajit Singh, AOR

Mr. Abhijit Sengupta, AOR

M/S. K J John And Co, AOR

Mr. G. Ramakrishna Prasad, AOR

Dr. Kailash Chand, AOR

Mr. Ashwani Kumar, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Ajay Sharma, AOR

Mr. Alok Gupta, AOR

Mr. S. Ravi Shankar, AOR

Mr. Vikas Singh, Sr. Adv.

Mr. Anil K. Sharma, Adv.

Mr. Rajesh Sharma, Adv.

Mr. Rajiv Goel, Adv.

Mr. Rajeev Kumar Gupta, Adv.

Ms. Nidhi Singh Dubey, Adv.

Mr. Shafiq Khan, Adv.

Ms. Shalu Sharma, AOR

M/S. K. Ramkumar & Associates, AOR

M/S. Ap & J Chambers, AOR

Mr. R. Gopalakrishnan, AOR

Mr. Shailendra Bhardwaj, AOR

Mr. P.S. Narsimha, ASG

Ms. Ranjeeta Rohatgi, AOR

Mr. Bhargava V. Desai, AOR

Mr. Shree Pal Singh, AOR

Ms. Sunita Sharma, AOR

Mr. Chander Shekhar Ashri, AOR

Mrs. S. Usha Reddy, AOR

Mr. Jitender Kumar Sethi, DAG
Mr. Jatinder Kumar Bhatia, AOR
Mr. Ashutosh Kumar Sharma, Adv.

Mr. Rana Ranjit Singh, AOR

Mr. Arun Kumar Beriwal, AOR

Mr. Sudhir Kumar Gupta, AOR

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

The process of distribution be completed within a period of three months from today.

The rate prescribed by the Collector for the property be also furnished along with report within a period of two months from today.

There are certain other applications stated to be pending; they are also required to be looked into and decided. Let cases be listed for consideration of the pending applications on 16th August, 2018.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)

Ranji Singh
/ TRUE COPY /

ITEM NO.1

COURT NO.8

SECTION X

93

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)

[for consideration of the pending applications]

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T.C.(C) No. 139/2003 (XVI-A)
T.C.(C) No. 140/2003 (XVI-A)
T.C.(C) No. 141/2003 (XVI-A)
T.C.(C) No. 142/2003 (XVI-A)
T.C.(C) No. 143/2003 (XVI-A)
T.C.(C) No. 144/2003 (XVI-A)
T.C.(C) No. 145/2003 (XVI-A)
T.C.(C) No. 147/2003 (XVI-A)
T.C.(C) No. 148/2003 (XVI-A)
T.C.(C) No. 149/2003 (XVI-A)
T.C.(C) No. 150/2003 (XVI-A)
T.C.(C) No. 151/2003 (XVI-A)

T.C.(C) No. 152/2003 (XVI-A)
T.C.(C) No. 153/2003 (XVI-A)
T.C.(C) No. 155/2003 (XVI-A)
T.C.(C) No. 156/2003 (XVI-A)
T.C.(C) No. 157/2003 (XVI-A)
T.C.(C) No. 158/2003 (XVI-A)
T.C.(C) No. 159/2003 (XVI-A)
T.C.(C) No. 160/2003 (XVI-A)
T.C.(C) No. 161/2003 (XVI-A)
T.C.(C) No. 162/2003 (XVI-A)
T.C.(C) No. 163/2003 (XVI-A)
T.C.(C) No. 164/2003 (XVI-A)
T.C.(C) No. 165/2003 (XVI-A)
T.C.(C) No. 166/2003 (XVI-A)
T.C.(C) No. 167/2003 (XVI-A)
T.C.(C) No. 168/2003 (XVI-A)
T.C.(C) No. 169/2003 (XVI-A)
T.C.(C) No. 170/2003 (XVI-A)
T.C.(C) No. 171/2003 (XVI-A)
T.C.(C) No. 172/2003 (XVI-A)
T.C.(C) No. 173/2003 (XVI-A)
T.C.(C) No. 174/2003 (XVI-A)
T.C.(C) No. 175/2003 (XVI-A)
T.C.(C) No. 176/2003 (XVI-A)
T.C.(C) No. 177/2003 (XVI-A)
T.C.(C) No. 178/2003 (XVI-A)
T.C.(C) No. 179/2003 (XVI-A)