

**IN THE SUPREME COURT OF INDIA**

CIVIL ORIGINAL JURISDICTION

Transferred 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)

**REJOINDER AFFIDAVIT ON BEHALF OF APPLICANT  
NIKHIL KANT SYAL, MAJORITY SHAREHOLDER OF THE  
GOLDEN FORESTS (I) LTD TO THE STATUS REPORT DATED  
14.11.2021 FILED BY THE COMMITTEE (GFIL).**

**PAPER-BOOK**

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**ADVOCATE FOR THE APPLICANT : SHUBHAM BHALLA**

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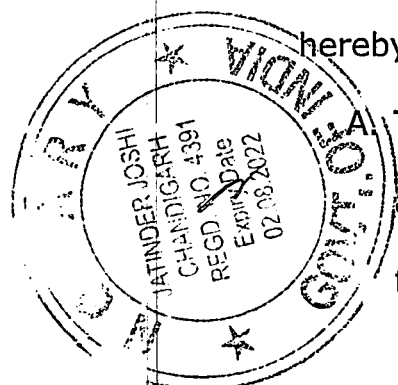
I, Nikhil Kant Syal, Aged 40 years, S/o Rakesh Kumar Syal, resident of # 573, Sector 12, Panchkula, Majority shareholder of the Golden Forests (I) Ltd.to the short affidavit dated 15.09.2021 filed by the Committee (GFIL),presently at Chandigarh, do hereby state on solemn affirmation as under, do

hereby most solemnly state and affirm as under :-

That I am the applicant and I am fully aware of the facts and circumstances of the case and am duly competent to file the present Rejoinder Affidavit.

*Nikhil Kant Syal*

*[Signature]*



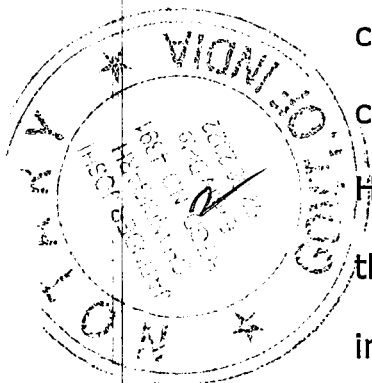
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- B. That I have read a copy of the Counter Affidavit filed by the Respondent and have understood the contents thereof and in rejoinder thereto I have to state as under.
- C. That each and every contention of the said Counter Affidavit is denied most emphatically, jointly and severally, unless specifically admitted to herein below.
- D. That the contentions and pleadings contained in the Rejoinder Affidavit are part of the record of the Hon'ble High Court and nothing new has been added.

**PRELIMINARY SUBMISSIONS:-**

1. That the applicant is the son of Sh. R.K. Syal and grandson of Sh. A.L. Syal, who were the founding members of Golden Forests (India) Ltd. The applicant was born in the year 1981 while GFIL was incorporated in the year 1987.

The applicant presumes that the interest of the applicant and the committee are common namely to ensure that all bona fide and genuine investors in the company receive their due amount and to ensure compliance with orders passed from time to time by this Hon'ble Court. The applicant states with due responsibility that at no stage has the applicant ever created any impediment in the working of the committee or sought any

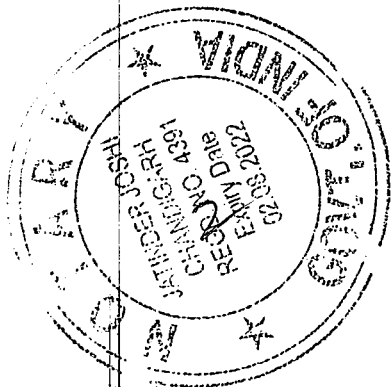
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action against any person acting under orders passed by this Hon'ble court. All that the applicant seeks, and presumably the committee also seeks is a final closure of these proceedings and equitable payment to all investors/creditors of the company so that the applicant and his family may be able to move forward in life.

The applicant therefore seeks opportunity to make an attempt to produce before this Hon'ble Court bonafide and genuine buyers who may be interested in purchasing the property of the company and as a result liquidating the liabilities of the company expeditiously and to the satisfaction of this Hon'ble Court. The applicant prays that he may be allowed to arrange buyers for the following properties:-

- i. 4 villages situated in Tehsil Manesar, District Gurgaon, Haryana - 170 Acres.
- ii. 6 villages Kot, Bill, Jaswantgarh in Panchkula Tehsil and District Panchkula, Haryana - 600 Acres.
- iii. Village Peer Muchalla, Tehsil Zirakpur, District Mohali - 35 Acres.
- iv. Village Sanauli, Tehsil Zirakpur, District Mohali - 40 Acres.



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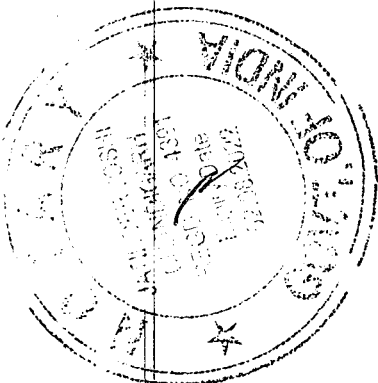
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The applicant if allowed would produce genuine buyers before this Hon'ble court and only after this court is satisfied about the bona fides of the buyers may they be allowed to purchase this property. The fact that ever since the company was placed in liquidation and the committee began selling properties only about 4 properties have been sold per year. If the process continues at this pace not only will the liability continued to swell but the matter would not conclude for the next more than 20 years. The applicant therefore prays that he may be granted opportunity to produce before this Hon'ble court buyers who may be interested in purchase of the above said property and only after this court is satisfied the person so interested may be allowed to purchase the property. If the applicant succeeds in his endeavor the amounts so collected may bring satisfaction to all investors/creditors.

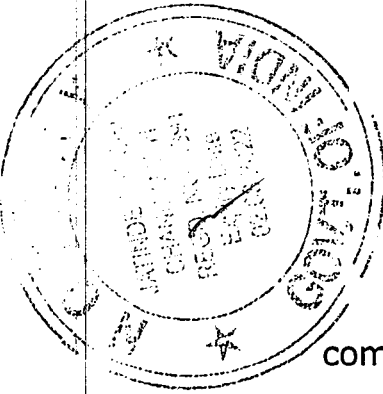
That vide order dated 25.09.2019, this Hon'ble court had directed the parties to frame issues that may have to be decided. The claimant prays that the following issues be decided so as to enable a just conclusion of these proceedings. The proposed issues are as follows:

- I. The total number of claimants that remain to be paid.

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- II. What will be the fate of investors who are not traceable?
- III. What will be the fate of investors whose letter containing cheque has remained undelivered?
- IV. The mode and manner of calculating interest on investment namely the rate to be paid after the order of liquidation.
- V. The final cut-off date for deciding the entire controversy.
- VI. The fate of the land which is stated to be surplus under the Punjab Land Reforms Act and similar act in Uttrakhand.
- VII. The revival of the company.
- VIII. Whether the IT Deptt. could have forcibly taken Rs. 100 Crores from the account of the Committee without seeking any permission from this Hon'ble Court?



The question of the applicant's status viz a viz the company raised by the committee is a red herring intended to thwart the just attempt by the applicant as detailed in the preceding paragraphs and would be considered at a later stage but the shareholding of the company is as detailed below. In the year 1999, following

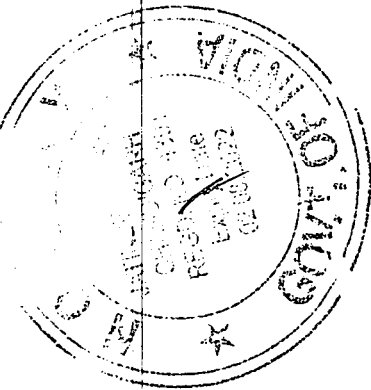
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was the shareholding pattern of GFIL as per ROC record out of the total number of shares (total equity) which were 1,00,000 :-

Smt. Neena Syal	18300
Sh. A.L. Syal	32500
Sh. R.K. Syal	4300
Smt. Pamila Syal	4400
Ms. Madhulika Syal	11900
Nikhil Syal/Applicant	12400
Ms. Madhurima Syal	11200
Smt. Bimla Syal	5000

It is pertinent to mention that Sh.A.L. Syal (applicant's grandfather) gave all his shares to Sh. R.K.Syal (applicant's father) by way of a registered will dated 08.03.1989, taking his total number of shares to 36800. Thereafter on the death of Sh. R.K. Syal (applicant's father) and Smt. Neena Syal (applicant's mother), their total shareholding was inherited by applicant and his sister Madhurima Syal which stands proved from order dated 27.07.2011 issued by the Permanent Lok Adalat, Panchkula wherein the applicant and his sister are the only two recognized legal heirs. It is appropriate to add here that Sh. A.L Syal died on

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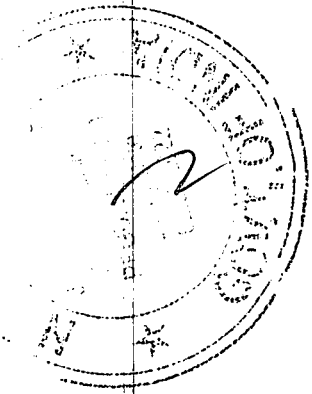
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19.01.2010 in judicial custody, Smt. Neena Syal died on 31.10.2010 in judicial custody (she was suffering from 4th stage cancer), Sh. R.K Syal died on 06.04.2011 in judicial custody and now Smt. Pamila Syal has left for her heavenly abode on 02.12.2021. Thus, 2 generations have perished with the stigma of the present case and the applicant could only wish that it should no longer haunt him or his children, hence, the present application.

At present, the total shareholding of the applicant is 67500 shares while that of applicant's sister is 11,200 shares. Applicant's sister has given an authorization letter in favor of the applicant that he is entitled to take any decision concerning her shares as well. Therefore, the applicant is entitled to take a decision concerning 78700 shares (78 % of shareholding).

It would be appropriate to add here that applicant was about 18 years of age in the year 1999 when the present dispute started and he was studying abroad at that time. Within the next few years the whole of his family was arrested, put behind the bars and his mother and father breathed their last in the jail. The criminal trials against the then directors have come to an end by the death of the directors or by acquittal of certain other persons who were named as accused. The applicant's

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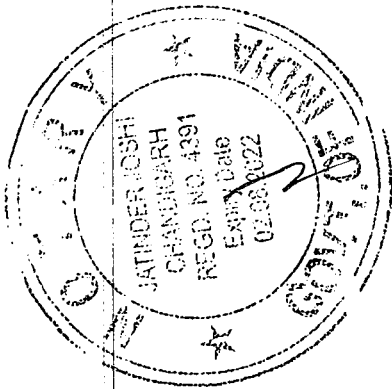


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endeavor is to discharge a moral responsibility towards the investors who but for the unfortunate orders passed by SEBI would have received complete satisfaction as even after passing of more than 25 years their investment is secured by the immoveable assets.

2. A brief narrative of the facts would be necessary:-

- i. The company was flourishing till the time SEBI got a restraint order from the Bombay High Court in the year 1998. [Upto this time there was no default, no FIR has been lodged or complaint filed with any court of law but as the company was restrained from transacting business of repayment the order had a cascading effect leading to multiple defaults, the business coming to a standstill, the registration of FIR's, the filing of complaints, under the Negotiable Instruments Act, 1881 where the primary reason was non-payment of money due to freezing of accounts of the company by the Bombay High Court and not due to non-availability of funds with the company. The company was caught in a vicious cycle of default, complaints and more defaults which were all beyond the control of the company.



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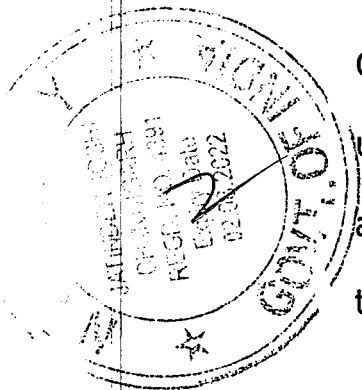
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3. That in the past 17 years, the Committee has only managed to sell 42 properties out of the total properties of over 10,000 acres (approx.). If the Committee continues to work at this place, investors would not be satisfied for the next 20 years. The applicant's endeavor is to search for bonafide and genuine buyers, who will be allowed to purchase the property only after the satisfaction of this Hon'ble Court.

It is appropriate to mention here that the Committee was formed by this Hon'ble Court on 19.08.2004 but in the past 17 years committee has failed to meet its objectives of settling the claims of the investors. Needless to state that admittedly the principal amount to be paid back to the investors in Rs 900 Crores (approx.) and Committee admittedly has Rs. 700 Crores available for disbursement. Moreover, many time auctions had to be cancelled after collecting bids due to the deficiencies of the Committee because it failed to properly identify or secure unencumbered properties without third party rights and also for the reason that it was not able to accurately value the properties.

It was for these reasons that this Hon'ble Court had entrusted the IT Deptt. to identify, value and sell the properties vide order dated 30.07.2018 (Annexure A-2).

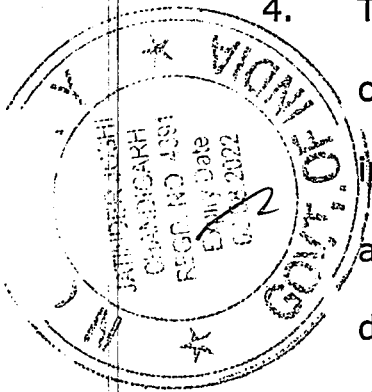
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At the moment there are 2 Committees working. The Committee which was formed in the year 2004 has not been able to continue selling properties after 30.07.2018 (Annexure A-2) and the IT Officers have been given to sell 23 properties have only managed to sell 6 properties. Therefore the applicant deserves one chance to sell the properties under the aegis of this Hon'ble Court and to provide the entire amount at once.

It is necessary to point out here that in the very first order dated 23.08.2004, this Hon'ble Court had noted that as far as possible the task of realization of assets and finalizing claims should be completed by the Committee within a period of 6 months from the date of the order. Be that as it may the fact that the Committee had a huge task at hand but even after passing of 17 years there is no end in sight.

4. That so far as allegations against the applicant are concerned, it is submitted that applicant is neither named in FIR no. 192/2007 nor has any Challan been submitted against him till date. The criminal trials against the then directors have come to an end by the death of the directors or by acquittal of other persons who were named as accused.



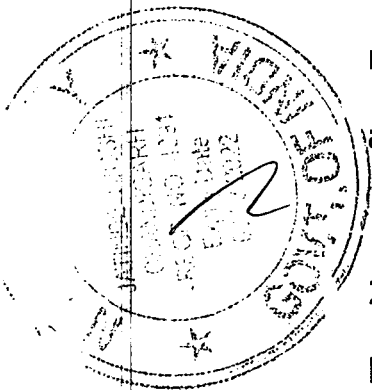
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It is submitted that Pamila Syal, erstwhile Director of the company was acquitted by ASJ, Roopnagar on 01.07.2013 in FIR No.63 dated 23.12.2000 u/s 406/420/467/468/471/120-B IPC and Section 7(2) of Punjab Land Reforms Act and Section 13(1)(a)(b)(c)(d) of Prevention of Corruption Act,1988 registered at PS Station Vigilance Bureau, Mohali by setting aside the conviction order dated 19.09.2011 passed by CJM, Roopnagar after holding that basic ingredients of offences under abovesaid sections were not made out against the company or its directors. It is pertinent to mention that the other directors had died in custody during the pendency of the trial. It is pertinent to mention here that the present FIR was registered by the Vigilance Bureau on extraneous considerations, though there was no jurisdiction with the vigilance to register the case which was a civil dispute between the investors and the company. It is pertinent to mention that Smt. Pamila Syal has left for her heavenly abode on 01.12.2021.

It is submitted that another FIR No. 62 dated 23.03.2001 u/s 406,420 and 120-B IPC was registered at PS Manimajra, Chandigarh on similar set of allegations, wherein also, all the directors were acquitted by JMJC, Chandigarh vide judgment dated 05.08.2010. It is thus

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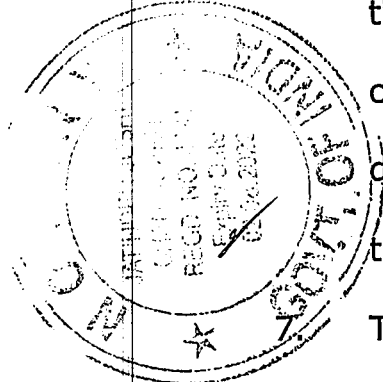
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apparent that a flourishing business was brought to the ground by the overzealous SEBI which resulted in filing of these FIRs leading to a domino-effect.

5. That shockingly though there is no reason or justification for the committee to be aggrieved against any proposal to satisfy the claims of the investors the committee seeks to oppose the proposal. The Committee is not an aggrieved party rather it should be supportive that if given opportunity, the applicant is ready and willing to deposit all the amount and even if, there is an iota of chance of settling all the claims at once, applicant should be given opportunity under the watchful eyes of this Hon'ble Court. It is in everybody's interest that there is an end to this litigation.

6. That this court gave a mandate to the committee but not a never ending mandate All that the applicant seeks is a time bound conclusion to the case and opportunity to the claimant to sell property to the satisfaction of this court, deposit the money in the escrow account for payment by the committee to investors etc.

That the applicant is not seeking any transfer of power from the committee to identify investors and pay them but is only proposing a mechanism whereby there is a one-time settlement as approved by this Hon'ble Court based

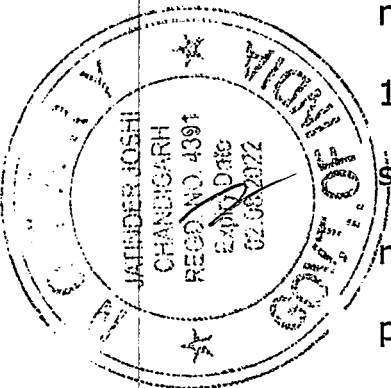


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on the number of investors, principal amount and the final amount to be paid and opportunity to sell the properties, to make available the said sum which can then be kept in an escrow account and the committee can very well keep identifying and paying the investors out of it. It is the inordinate delay by committee in realizing assets to get the funds for settling claims which is agonizing and the pace at which committee has worked, there seems to be no end in sight. Applicant only wants opportunity to make an earnest effort to end this litigation by depositing a sum which would be sufficient to settle all claims and achieve closure once for all.

**REPLY ON MERITS:-**

1. That the contents of para no. 1 of the status report need no reply being formal.
2. That the contents of para no. 2 of the status report are a matter of record. However, it is submitted that in the past 17 years committee has failed to meet its objective of settling all the claims by investors and it was for this reason that this Hon'ble Court after noticing the tardy pace of working of the committee and its failure to sell the properties at the desired pace had thereafter entrusted IT Deptt. to identify, value and sell the properties vide order

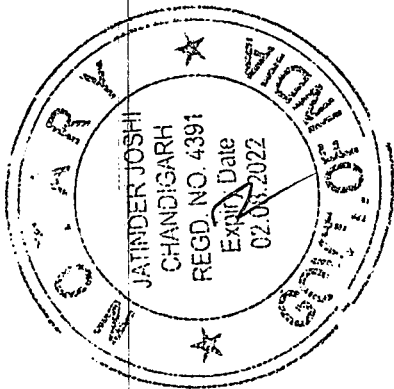


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dated 30.07.2018 (Annexure A-2). Unfortunately, even the IT Deptt. has failed to achieve any substantial results and in the past 3 years only 6 properties have been sold out of the 23 properties identified for sale which were approved by this Hon'ble Court for the purpose.

3. That the contents of para no. 3 of the status report need no reply being formal.
4. That in reply to the contents of para no. 4 of the status report, it is submitted as under:-

- I. It is submitted that in the status report dated Status report dated 27.07.2005 filed by the Committee before this Hon'ble Court, it had made many admissions about the problems it was facing. It has been admitted by the Committee in para no. 2 under the Sub-heading CLAIMS OF DEPOSITORS of the said status report that the company stopped its business in December 2000 and all the directors were in jail, however unscrupulous agents continued to receive deposits for the period 2001-2004. There are no receipts of the company with such claims and many agents prepared fictitious deposits and sent bogus claims without any supporting documents which run into crores of rupees.



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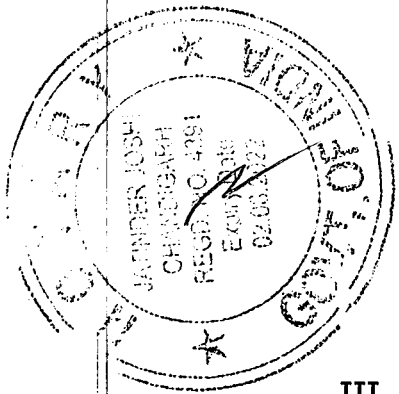


It has also been admitted by the Committee, under the Sub-heading PROPERTIES of the said status report that it is unable to identify, recover possession and secure properties due to various issues and the Properties situated in Pachkula were sold illegally while properties in Nalagarh and York health resort have been illegally occupied by various unauthorized people. Lands in Jharmari and KotBilla have also been taken over by unauthorized people, thus, the Committee admits that it is not in position to look after all these properties.

II. In the Status report dated 12.09.2011 filed by the Committee before this Hon'ble Court, it is admitted in para no.2 of the said status report that as on 06.09.2011, only 26 properties have been auctioned by the committee realizing 303 Crores (approx) and it is further admitted in para no.6 of the said status report that total funds lying to the credit of the Committee are 329 Crores and 91 Crores more is to be received by Committee by 22.09.2011.

III. In the Status report filed by committee in compliance of order dated 07.08.2012 passed by this Hon'ble Court, it is admitted in Para nos. 13 and 14 of the said status report that total actionable

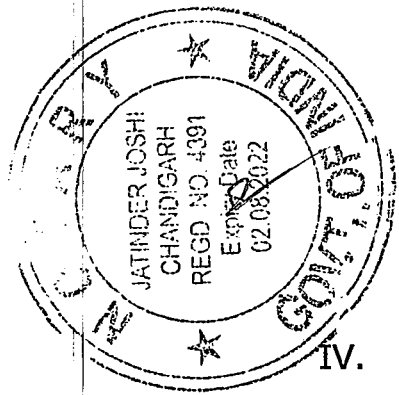
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claims are 13.5 lacs in case of GFIL for which the principal amount is Rs. 770 Crores and total actionable claims are 1.5 lakh in case of Golden Projects Ltd. for which the principal amount is Rs. 131 Crores. It is further recorded by the committee in Para no.15 of the said status report that total liability towards the Govt. and its agencies is Rs 8 Crores and in Para no. 16 of the said status report, it is recorded that the Committee has collected Rs. 567.5 Crores through auction sale.

It is further admitted in Para no.17 of the said status report that an amount of Rs 137.55 Crores collected from sale of some property in surplus land quota has been kept separately in a suspense account till the final decision on the surplus land dispute. It is further there in Para no. 21 of the said status report that after excluding Rs. 200 Crores kept in the suspense account and the miscellaneous expenses of the Committee, a sum of Rs. 367 Crores is left for disbursement to the investors.



IV. In the Status report dated 30.09.2015 filed by the Committee before this Hon'ble Court, it is admitted in Para no.2 of the said status report that the total amount lying to the credit of the Committee is 600

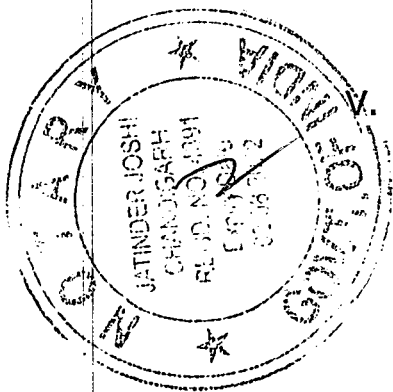
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Crores (approx.), which is stated to be the sum total of amount realized through auction sale as well as the amount lying in the bank accounts of Golden Forests Group. It is further recorded in Para no.2 of the said status report that after deducting the amount belonging to the Golden projects and that received from sale of surplus land, the committee has a sum of Rs 449.5 Crores available for disbursement to the investors. Thereafter, in Para nos.10 and 11 of the said status report, the Committee submits that it needs Rs 50 Crores for its expenses and Rs 5-7 Crores as disbursement expenses and therefore, it is recorded in Para no. 11 of the said status report that after deducting its own expenses, Committee determines the fund available for disbursement to the investors to be Rs 392.5 Crores, keeping aside the claims of IT Deptt. and EPFO.

In the Status report filed by the Committee in compliance of the order dated 02.05.2018 passed by this Hon'ble Court , it is admitted in Para no.3 of the said status report that the Committee has realized a sum of Rs 1100 Crores through auction sale out of which Rs 300 Crores has been refunded under the

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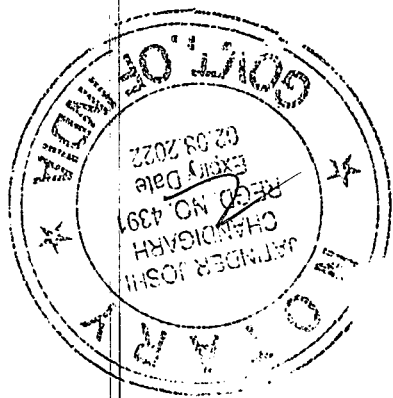


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direction of this Hon'ble Court while Rs 100 Crores has been forcibly withdrawn by the IT Deptt and now the Committee is left with Rs 700 Crores for disbursement to the investors.

- VI. In the latest Status report dated 14.11.2021 filed by the Committee before this Hon'ble Court, it is admitted by the Committee in Para no.4 of the said status report that it has collected Rs 548 through auction sale of 42 properties.

It is pertinent to mention that in the status report dated 07.08.2012, Committee had given a figure of Rs. 567.5 collected through auction whereas in the year 2021, the figure has reduced to Rs 548 Crores rather than increasing. One more shocking thing is that in the status report dated 02.05.2018, Committee has stated that it has realized Rs 1100 Crores through auction out of which Rs 300 Crores was returned on the directions of this Hon'ble Court while a sum of Rs 100 Crores was taken away by the IT Deptt. forcibly leaving the Committee with a sum of Rs 700 Crores collected through auction. Then it is not understandable how the amount collected through auction sale in the latest report has been reduced to Rs 548 Crores.



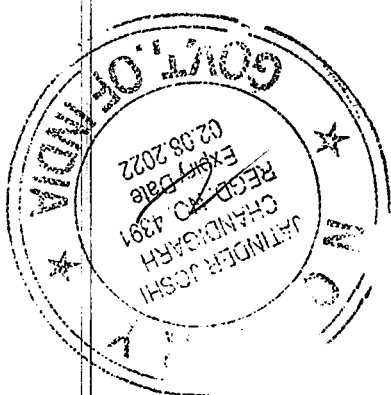
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Thus, it is crystal clear that there are huge contradictions in the various reports filed by the Committee leaving a lot to be answered.

Furthermore, there is no explanation in the latest report about the sum of Rs 200 Crores which was kept in a suspense account as per status report dated 02.05.2018. Similarly there is no explanation or justification in the latest report about the sum of Rs 50 Crores which committee had kept aside for its own expenses as per status report dated 30.09.2015. Moreover, in different status reports different amount has been stated to be available for disbursement and other purposes by showing different expenses or subtractions but the same expenses are then not carried down to the later reports, which casts great doubt about the reliability of the data given in the reports.

Therefore, there were profound reasons for this Hon'ble Court to be displeased with the working of the Committee and then asking it to file correct and specific reports and moreover, that was also the reason that on 07.05.2019, the task of selling the properties was taken away from the Committee and

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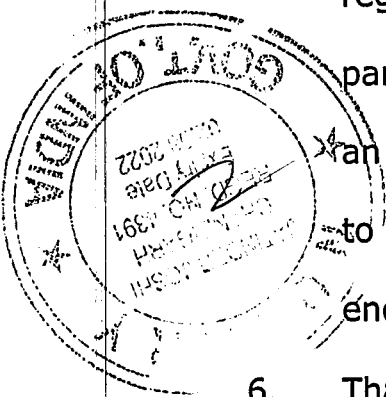
then handed over to the IT Deptt. expecting better efficiency and clarity.

Some very important admissions have been made by the Committee in this paragraph that it has even failed to protect the interests of the investors and despite the categorical order of stay passed by this Hon'ble Court restraining any forum/court/tribunal or authority from deciding any claim in the properties involving GFIL, the courts are passing orders in a routine manner.

It is incomprehensible as to how any forum/court/tribunal or authority could pass orders in violation of the stay order passed by this Hon'ble Court and what action has been taken by the committee in this regard and whether there is lack of responsiveness on the part of the committee who has been entrusted with such an humungous task but the committee is finding it difficult to handle and thus it has stretched year after year with no end in sight.

6. That in reply to the contents of para no. 6 of the status report, it is submitted that at present the mandate to sell the properties has been taken away from the committee due to its earlier tardy pace and lack of expertise and the same has been handed over to the IT Deptt. It would be

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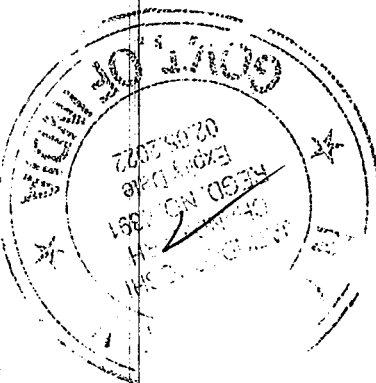


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not appropriate for the committee now to seek permission for selling more properties when it has already been found wanting and lacking in performing its task at the desired pace. Earlier also only 48 properties were sold over a period of 17 years.

As per the last orders in this regard, IT Deptt., which had got approval from this Hon'ble Court for the sale of 23 identified properties has barely managed to sell 6 properties in the past 3 years. It is distressing to submit that in this manner this can go endlessly and 17 years have already passed since the litigation started.

7-9. That in reply to the contents of para nos. 7 to 9 of the status report, it is submitted that all these are admissions on the part of the committee that they have utterly failed to secure and protect the interests of the investors and have been found severely wanting in taking timely action. Either there is lack of responsiveness or urgency on the part of committee or failure to understand the gravity of the situation but in all eventualities, it is the common investor who is suffering and whose payment is getting delayed for 17 years when the committee already had almost the full principal amount available with it since many years. If such huge chunk of lands are being allowed to be squandered, how would the investors get their due



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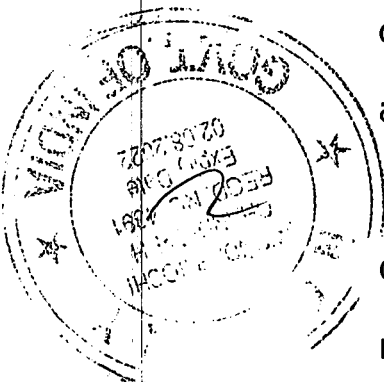
because committee is failing on both the fronts, realization of assets through sale as well as protecting the GFIL properties from being usurped by unscrupulous elements.

10. That in reply to the contents of para no. 10 of the status report, it is submitted that this is again an admission by the committee that despite availability of more than 70% of the principal liability (Committee had earlier admitted that it had 700 crores and principal liability comes out to be 900 crores) still more than 4.5 lacs(approx.) investors have not got their money and more than 2.4 lacs investors have not even been identified. Moreso, when the committee admits that as on date it has Rs 292 crores available with it for disbursement.

Be that as it may, it is clear that there was and is enough fund available with the committee towards settling all the claims so far as the principal amount is concerned and yet the investors are being deprived due to lack of clarity on the part of committee to adopt a mechanism to achieve a full and final closure.

It is also not understandable as to why the number of additional claims received after the cut-off date have not been made available by the committee to this Hon'ble Court. It would be appropriate that the same are brought on record immediately and no investor is deprived of his

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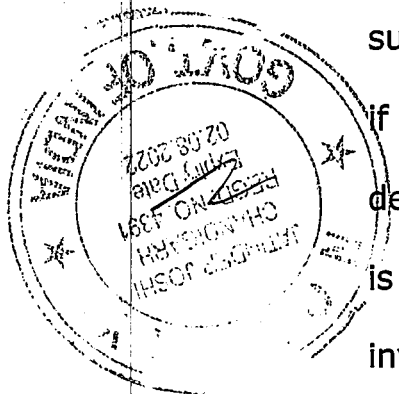
hard earned money. Such amount can also be added to the final amount as may be determined by this Hon'ble Court.

11-12. That in reply to the contents of para nos. 11 to 12 of the status report, it is submitted that all these are instances which show that the committee has been found severely wanting and lacking in securing and protecting the interests of the investors. It is pertinent to mention that the committee has not revealed as to what steps it has taken if the authorities did not take any action on its representations. In this manner the valuable assets of the company may not be realized ever and eventually it is the investor who would suffer.

13-14. That in reply to the contents of para nos. 13 to 14 of the status report, it is submitted that the matter of surplus land is sub-judice before this Hon'ble Court but there is no explanation by the committee as to why there has been such an inordinate delay in approaching this Hon'ble Court if the courts below were found wanting in take timely decisions because the chunk of land that is under litigation is substantial and could definitely satisfy the claim of all investors at once.

It is appropriate to add that while the Central land Ceiling Act was repealed way back in the year 1999, the

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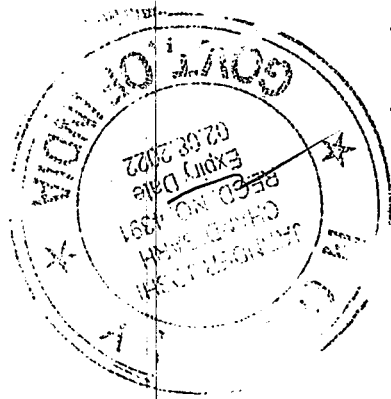


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State of Punjab/Haryana and other states have retrospectively amended their land acts to exclude the operation of the Act in the case of commercial, business, industry etc. If the case of the GFIL also falls under the exempted categories, Committee should at once bring the same to the notice of this Hon'ble Court so that an early decision may be arrived on the question of surplus land also.

15-16. That in reply to the contents of para nos. 15 to 16 of the status report, it is submitted that all these are admissions on the part of the committee that they have utterly failed to secure and protect the interests of the investors and have been found severely wanting in taking timely action. There is no justification that the IT Deptt. could overreach the orders of this Hon'ble Court and take away sum of Rs.100 Crores directly from the account of the Committee which is working directly under the aegis of this Hon'ble Court without seeking any permission from this Hon'ble Court. It is the common investor who is suffering and would be the ultimate loser if such huge land chunks are being allowed to be squandered which should have formed part of the corpus to settle the claims by the investors. So much so that the committee has admitted

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that it is not even contesting the capital gains tax case against the IT Deptt. before any forum.

17. That in reply to the contents of the para no.17 of the status report, it is submitted that the proposed scheme by the applicant provides for settling the claims of all the investors of Golden Projects Ltd. also. The rest of the submissions made above are reiterated herein as well and are not being repeated for the sake of brevity.

18. That the contents of the para no.18 of the status report need no reply being formal.

**PRAYER**

It is, therefore, respectfully prayed that the present application may kindly be allowed and the proposal of the applicant may kindly be accepted, in the interests of justice, equity and fair play.



**DEPONENT**

**VERIFICATION**

I, the deponent mentioned above do hereby most solemnly affirm and verify that what is stated in the above Affidavit is true to my knowledge and I believe the same to be true.

Verified at Chandigarh on 3rd day of December, 2021.

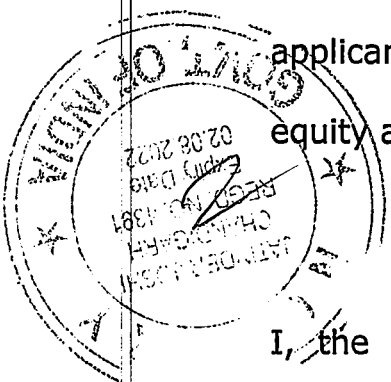


**DEPONENT**

**ATTESTED**

**NOTARY PUBLIC  
CHANDIGARH**

**03 DEC 2021**



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SECRETARY  
GENERAL  
GOVT OF INDIA  
CHANDIGARH