

ITEM NO.301

Court 4 (Video Conferencing)

SECTION XVII-A

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

Civil Appeal No(s).10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(WITH IA-112090/21, IA No. 57580/2021 - APPROPRIATE
ORDERS/DIRECTIONS, IA No. 50706/2021 - APPROPRIATE
ORDERS/DIRECTIONS, IA No. 50683/2021 - APPROPRIATE
ORDERS/DIRECTIONS, IA No. 81663/2021 - APPROPRIATE
ORDERS/DIRECTIONS, IA No. 79304/2020 - INTERVENTION APPLICATION,
IA No. 57581/2021 - INTERVENTION/IMPLEADMENT, IA No. 50704/2021 -
INTERVENTION/IMPLEADMENT, IA No. 81660/2021 -
INTERVENTION/IMPLEADMENT, IA No. 5463/2021 - PERMISSION TO PLACE
ADDITIONAL FACTS AND GROUNDS)

WITH

SLP(Cr1) No. 5978-5979/2017 (II-C)

Date : 06-10-2021 These matters were called on for hearing today.

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HON'BLE MR. JUSTICE M.R. SHAH

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Ms. Unnati Vijay, Advocate
Ms. Shivani Bhushan, Advocate
Ms. Aishwarya Samal, Advocate

Mr. Arup Banerjee, AOR
Mr. Sanjeev Sharma, Adv.

Ms. Eshna Kumar, Adv.
Mr. Udit Gupta, Adv.
Mr. Anup Jain, Adv.
For Udit Kishan & Associates

Mr. Brijendra Singh, Adv.
Mr. Shishir Kr. Saxena, Adv.
Mr. P.N. Pareek, Adv.
Mr. Jagmohan Pareek, Adv.
Mr. Deepak Sharma, Adv.
Mr. Jagdamba Singh, Adv.
Ms. Payal Swarup, Adv.
Archana Sharma, Adv.
Mr. Praveen Swarup, AOR

Ms. Shikha Dixit, in-person

Ms. Binu Tamta, Adv.
Mr. Dhruv Tamta, AOR

Mr. Sanjeev Sen, Senior Advocate
Mr. Salim Inamdar, Adv
Ms. Astha Tyagi, AOR

Mr. Joy Saha, Sr. Adv
Mr. Sarad Kumar Singhania AOR
Ms. Rashmi Singhania, Adv

Mr. Anil Kumar, Adv.
Mr. Kamal Mohan Gupta, Adv.

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Sanjay Bhatt, Adv.
Mr. Sumit Nagpal, Adv.
Ms. Niharika Sharma, Adv.
Ms. Akansha Srivastava, Adv.
Mr. Rabin Majumder, AOR

Mr. Dhruv Tamta, AOR

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

Civil Appeal No 10856 of 2016 and SLP (Crl) Nos 5978-5979 of 2017

- 1 The Enquiry Report dated 28 September 2021 submitted by Shri Rakesh Asthana, Commissioner of Police, Delhi is placed on the record. In terms of the contents of paragraph 37 of the Report, we grant permission to conduct a full-fledged criminal investigation against the persons mentioned therein as also against any unknown persons, whose identity may be revealed during the course of investigation, by registering a criminal case. The Commissioner of Police has stated that a criminal case shall be registered in the Crime Branch of Delhi Police under Sections 7, 8 and 12 of the Prevention of Corruption Act 1988 read with Sections 201/120B of the Indian Penal Code 1860. The provisions of law shall be complied with.

- 2 We direct that, in the meantime, the officials of Tihar Jail who have been *prima facie* found to be complicit in the course of the Enquiry shall be placed under suspension pending further proceedings.
- 3 We further direct the Union Ministry of Home Affairs to respond to the suggestions which are contained in paragraph 38, including 38.1, 38.2, 38.3, of the Report of the Commissioner of Police and take necessary steps immediately in terms of the Report for enhanced prison management.
- 4 Necessary remedial steps shall be taken immediately and an action plan shall be drawn up which shall be placed before the Court for implementing the suggestions and recommendations. This shall be complied with within a period of four weeks. A plan of action shall be submitted to this Court, though the process of compliance shall not be delayed on that ground.
- 5 Apart from the line of action which has been suggested in the Report of the Commissioner of Police, necessary steps may also be taken if any violation of the provisions of the Jail Manual are detected.
- 6 The Commissioner of Police is requested to forward a copy of this Report in a sealed cover to the Union Ministry of Home Affairs to facilitate compliance with the directions which have been issued in this order.
- 7 Mr K M Nataraj and Ms Madhavi Divan, Additional Solicitors General, placed before the Court:
- (i) The interim investigation report dated 16 July 2021 of the Serious Fraud Investigation Office¹ of the Ministry of Corporate Affairs;
- (ii) The second status report of the Directorate of Enforcement dated 16

1“SFIO”

August 2021; and

(iii) The third status report of the Directorate of Enforcement dated 29 September 2021.

- 8 The investigation is under way at present. We have perused the status reports. The investigation shall continue. The Court shall be apprised, on or before the next date of listing, with an up to date status report of the Enforcement Directorate and the SFIO. The interim status report which has been filed by the SFIO shall be shared with the Enforcement Directorate for further action in accordance with law.
- 9 Mr Vikas Singh, Senior Counsel appearing on behalf of the accused – Sanjay Chandra and Ajay Chandra, submits that a report of the forensic auditors M/s Grant Thornton may be made available to him so as to enable him to controvert the contents of the report.
- 10 At present, from the status reports which have been filed before this Court, it emerges that the report submitted by the forensic auditors is the subject matter of the investigation which is being conducted by the Enforcement Directorate. Since the matter is at the stage of investigation, it would not be either in accordance with law or precept to provide the underlying material which forms the subject matter of investigation to the accused at the present stage. Disclosure of the information at this stage will derail the investigation and there is a grave danger of dissipation of assets.
- 11 We direct that the proceedings be listed on 10 November 2021 at 3 pm before this Bench so that the Court can be apprised of the further status of the investigation.

- 12 On the request of Mr Pawanshree Agrawal, *amicus curiae*, the web portal for permitting the conversion of options of home-buyers from refund to possession shall continue to remain open for a further period of fifteen days. Period for deposit of title deeds shall likewise be extended for a further period of fifteen days.

IA 50683 of 2021 in Civil Appeal No 10856 of 2016, IA 81660 and 81663 of 2021 in Civil Appeal No 10856 of 2016, IA 57580 and 57581 of 2021 in Civil Appeal No 10856 of 2016, IA 50704 and 50706 of 2021 in Civil Appeal No 10856 of 2016 with IA Nos 79304 of 2020, IA No 5463 of 2021 and IA No 112090 of 2021

List the applications on 21 October 2021 at 3 pm before this Bench.

**(SANJAY KUMAR-I)
AR-CUM-PS**

**(SAROJ KUMARI GAUR)
COURT MASTER**