

ITEM NO.301

COURT NO.4

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.10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD.

Respondent(s)

(With IA No.50706/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.97388/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.80954/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.79304/2020 - INTERVENTION APPLICATION, IA No.100828/2019 - INTERVENTION/IMPLEADMENT, IA No.50704/2021 - INTERVENTION/IMPLEADMENT, IA No.47795/2021 - INTERVENTION/IMPLEADMENT, IA No.80947/2020 - INTERVENTION/IMPLEADMENT and IA No.5463/2021 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

WITH S.L.P.(Cr1) Nos.5978-5979/2017 (II-C)

(With IA No.118046/2018 - CLARIFICATION/DIRECTION and IA No.57578/2022 - CLARIFICATION/DIRECTION)

Date : 27-04-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

Mr. Pawanshree Agrawal, AOR (A.C.)
Mr. Varun K. Chopra, Adv.

For Appellant(s)

Mr. Deepak Goel, AOR

Mr. Siddhartha Dave, Sr. Adv.
Mr. Vishal Gosain, Adv.
Mr. Anuroop Chakravarti, Adv.
Ms. Ranjeeta Rohatgi, AOR
Ms. Samten Doma, Adv.
Ms. Aarushi Singh, Adv.
Ms. Neeha Nagpal, Adv.
Ms. Tarannum Cheema, Adv.
Mr. Akash Kumar Singh, Adv.

Mr. N. Venkataraman, ASG
Ms. Anubha Agrawal, AOR

For Respondent(s)

Ms. Madhavi Divan, ASG
Mr. K.M. Nataraj, ASG
Ms. Suhashini Sen, Adv.
Ms. Shraddha Deshmukh, Adv.
Mr. M.K. Maroria, AOR
Ms. Chinmayee Chandra, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Rajan Kr Chourasia, Adv.
Mr. Prashant Singh B, Adv.
Mr. Amrish Kumar, AOR
Mr. Ayush Puri, Adv.
Ms. Ruchi Kohli, Adv.
Ms. Nidhi Khanna, Adv.
Ms. Praveena Gautam, Adv.
Mr. Shekhar Vyas, Adv.
Mr. Santosh Kumar, Adv.
Mr. Sughosh Subramaniam, Adv.
Mr. Ankur Talwar, Adv.
Ms. Vaishali Verma, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Arvind Kumar Sharma, AOR
Mr. T.A. Khan, Adv.
Mr. Anish Kr. Gupta, Adv.
Mr. Adit Khorana, Adv.
Mr. Digvijay Dam, Adv.
Mr. G.S. Makkar, AOR

Mr. Nakul Mohta, Adv.
Mr. Devansh Srivastava, Adv.
Ms. Misha Rohatgi, AOR

Mr. S.C. Dharmadhikari, Adv.
Mr. Aniruddha Joshi, Adv.
Ms. Jasmine Damkewala, AOR
Ms. Vaishali Sharma, Adv.
Mr. Dinesh Chander Trehan, Adv.
Mr. Aditya Gupta, Adv.

Mr. Divyesh Pratap Singh, AOR

Mr. Nikhil Nayyar, Sr. Adv.
Ms. Pritha Srikumar Iyer, AOR
Mr. Naveen Hegde, Adv.
Ms. Mansi Binjrajka, Adv.

Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kumar Visen, AOR
Mr. Shalen Bhardwaj, Adv.
Mr. Suresh Kumar Bhan, Adv.

Mr. Brijesh Kumar Tamber, AOR
Mr. Saurabh Choudhary, Adv.
Mr. Yashu Rustagi, Adv.
Mr. Prashant Kumar, Adv.
Mr. Aniruddh Singh, Adv.
Ms. Charu Ambwani, AOR

Mr. Vipin Jain, Adv.
Mr. Shwetabh Sinha, Adv.
Mr. Ujjal Banerjee, AOR
Mr. Akash Khurana, Adv.

Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S Kulkarni, AOR
Ms. Uditha Chakravarthy, Adv.

Mr. M.L. Lahoty, Adv.
Mr. Paban K. Sharma, Adv.
Mr. Anchit Sripat, Adv.
Mr. Pranab Kumar Nayak, Adv.

Mr. Himanshu Shekhar, Adv.

Mr. Gautam Narayan, Adv.
Mr. Unmukt Gera, Adv.

Mr. Ravindra Kumar, Sr. Adv.
Mr. Binay Kumar Das, Adv.
Ms. Priyanka Das, Adv.
Ms. Neha Das, Adv.

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

- 1 In continuation of the previous orders of this Court, further directions are necessary to enable the flat buyers who have given options for refund to seek possession in substitution of refund.
- 2 The Court has been apprised by counsel appearing on behalf of senior citizens, fixed deposit holders and persons with urgent medical needs that such cases for refund may be processed expeditiously to alleviate the hardship which is being faced by the persons belonging to those categories.
- 3 After hearing counsel, we issue the following directions:
 - (i) Mr Pawanshree Agrawal, *amicus curiae*, shall keep the web portal open until 15 May 2022 to enable any flat buyer who has applied for refund of the amount paid to Unitech into an option for possession;
 - (ii) In order to enable the Court to have a clear picture of the extent of outflow, the following details shall be compiled:

- (a) On or before 15 May 2022, all flat buyers who are registered on the portal shall email/message a request under the directions of this Court to upload the details of the date of birth of the sole flat buyer or joint flat buyers, as the case may be, in order to compile the age profile of the flat buyers;
- (b) Based on the information which would be received, *amicus curiae* and the present Board of Management of Unitech shall jointly compile and submit to the Court a statement of:
 - (A) Flat buyers above the age of 75 years; and
 - (B) Flat buyers between the ages of 65 and 75 years, who have opted for refund.
- (iii) In order to deal with the application for refund on the ground of medical exigency, the web portal shall be modified so as to permit any flat buyer who desires refund on the above ground to upload scanned copies of the relevant medical records;
- (iv) Based on the data, which is submitted on the web portal in pursuance of the above directions, a statement shall be prepared for the Court, indicating:
 - (a) The likely outflow of funds if payment is required to be made to those flat buyers who have sought refund in the age group of:

- (A) 65 - 75 years; and
- (B) Above 75 years;
- (b) The refunds estimated on the ground of medical requirements;
- (v) The refunds due to fixed deposit holders falling in the above age-based categories, that is, 65-75 years and above 75 years and on the ground of medical requirements, shall also be compiled in a similar manner and the data shall be placed before this Court;
- (vi) The web portal shall also be kept open until 15 May 2022 to enable all flat buyers and fixed deposit holders who have not so far registered on the portal to do so; and
- (vii) Access to the web portal which is being maintained by the *amicus curiae* shall also be made available to the present Board of Management of Unitech which shall nominate a nodal officer who can coordinate online together with the *amicus curiae*.

4 To be listed on 18 May 2022 at 2 pm.

Status Report of the Director General (Prisons)

- 1 A status report in compliance of the order dated 9 March 2022 has been filed by the DG (Prisons).
- 2 The status report indicates the present position in regard to compliance

under various heads under the previous order of this Court. Since the work is underway, we direct that further consideration of the steps which are taken shall be considered on 27 July 2022 at 2.00 pm.

- 3 An updated status report shall be filed by Mr Gautam Narayan, counsel appearing on behalf of the NCT of Delhi.

Action Taken Report III by Unitech

- 1 Mr Ravindra Kumar, senior counsel appearing on behalf of NOIDA and Greater NOIDA, states that the response of these two authorities in pursuance of the previous order of this Court shall be filed within the course of the week.
- 2 Similarly, the response of the State of Haryana shall be filed by Mr Anil Grover, Sr AAG during the course of the week.
- 3 The Board of Directors of Unitech Limited has been constituted by the Ministry of Corporate Affairs of the Union government with the approval of this Court. Some of the Directors hold positions as Non-executive/Independent Directors on the Boards of a number of Companies. The provisions of the Companies Act 2013 and SEBI regulations prescribe limits on the number of positions a person is eligible to hold on the Boards of Companies. In this context, Section 165 of the Companies Act 2013 and Regulation 17A and 26 of the SEBI (Listing Obligations and Disclosure Requirement) Regulations 2015 contain provisions placing a limit on the

maximum number of Directorships which may be held by an individual in Companies at any point of time.

- 4 Since the Board has been constituted by the Union government in an attempt to protect the interest of the home buyers, it would be appropriate if the request which has been submitted for the grant of a relaxation on the applicability of the prescribed limits only to the extent that they hold positions on the Board of the Unitech Group may be considered. SEBI as well as Union Ministry of Corporate Affairs or any other appropriate authority concerned may look into the request and take a considered decision in accordance with law, preferably within a period of four weeks.
- 5 During the course of the next hearing, the Board of Management of Unitech Limited shall present an updated Action Taken Report taking into account further developments which have taken place after the submission of Action Taken Report – III, which was with reference to 28 March 2022.
- 6 The final report of the Project Management Consultants shall also be presented on the next occasion.
- 7 List on 5 May 2022 at 2 pm.

IA No 100828 of 2019 and IA No 170286 of 2020

- 1 Response of the Committee of the Board of Management of Unitech Limited to the applications be filed within a period of three weeks.

- 2 List the Interlocutory Applications on 18 May 2022 at 2.00 pm.

IA No 57578 of 2022 & IA No 64802 of 2022

- 1 Issue notice, returnable on 5 May 2022 at 2.00 pm.

Office Report dated 25 April 2022 in SLP(Crl) Nos 5978-5979 of 2017

- 1 The office report indicates that two FDRs, bearing A/c No 1303-W and 1303-L, are maturing on 25 May 2022 and 27 May 2022 respectively. The FDRs be renewed for a further period of 91 days and six months, respectively with auto renewal from time to time.

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- 1 List the following on 5 May 2022 at 2 pm:
 - (i) IA No 57578 of 2022 & IA No 64802 of 2022;
 - (ii) Updated Action Taken Report by Unitech;
 - (iii) D.A. Kumar - IA Nos. 97388 of 2020, 47795 of 2021 filed by Unitech and IA Nos. 80954 of 2020 and 80947 of 2020 filed by D A Kumar;
 - (iv) Carnoustie - IA Nos. 50704 of 2021, 50706 of 2021 filed by Unitech and IA Nos. 79304 of 2020, 5463 of 2021 filed by Carnoustie and IA No 118046 of 2018 in SLP(Crl) Nos 5978-5979/2017;
 - (v) IA No 100828 of 2019 and IA No 170286 of 2020 in Civil Appeal No 10856 of 2016; and

(vi) IA No 57578 of 2022 and IA No 64802 of 2022 in SLP(Crl) Nos 5978-5979/2017.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master