

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

M.A.NOS.293-295 OF 2017
(For modification/clarification)
IN
CIVIL APPEAL NOS.6463-6465 OF 2017
AND
INTERLOCUTORY APPLICATION NOS.43413 & 56029 OF 2018
(For appropriate directions and for recall
of Court's order dated 9.4.2018)
IN
M.A.NOS.346, 1018, 506 & 749 OF 2018
(For directions)
AND
INTERLOCUTORY APPLICATION NO.8154 OF 2018
(For appropriate directions)
IN
M.A.NO.1747 OF 2017
(For directions)
IN
CIVIL APPEAL NO.6466 OF 2017
WITH
CONTEMPT PETITION (C) NOS.1590-1592 & 1593 OF 2017
IN
CIVIL APPEAL NOS.6463-6465 & 6466 OF 2017
AND
REVIEW PETITION (C).....D.NO.31927 OF 2017
AND
INTERLOCUTORY APPLICATION NO.101777 OF 2017
(For clarification/modification)
AND
INTERLOCUTORY APPLICATION NO.28788 OF 2018
(For direction)
AND
CONTEMPT PETITION (C) NOS.1804-1806 OF 2017
IN
M.A.NOS.293-295 OF 2017

MAHARAJI EDUCATION TRUST

.....

PETITIONER(S)

VERSUS

HOUSING AND URBAN DEVELOPMENT
CORPORATION LTD. & ORS.

.....

RESPONDENT(S)

O R D E R

M.A.NOS.293-295/2017, 1018/2017, 346/2017, 1747/2017 & 749/2018, CONTEMPT PETITION (C)NOS.1590-1592 & 1593 OF 2017, I.A. NOS.101777, 7057 & 19439 OF 2018 & I.A.No.43413 :

1. Heard learned counsel.
2. Learned counsel appearing for the applicants/petitioners seeks leave to withdraw the above applications and contempt petitions.
3. The applications as well as the contempt petitions are dismissed as withdrawn.
4. However, the material placed in M.A.No.749/2018 can be used by the HUDCO, in case the occasion demands.

I.A.NO.56029/2018 in C.A.No.6466/2017, I.A.No.8154/2018 & M.A.No.506/2018 :

1. Heard learned counsel for the parties.
2. This Court has recorded compromise between the parties vide order dated 9.4.2018. As liberty to HUDCO was reserved to raise the objections, the HUDCO has raised its objections by way of filing this application, i.e., I.A.No.56029/2018, unfettered by the previous order that has been passed. Since HUDCO was having second charge, we have examined the entire matter of compromise on merits

afresh after hearing learned counsel for the parties at length. This Court has decided the question with respect to the land that was obtained in exchange, being 20.605 acres, approximately 21 acres of the land, obtained in exchange from U.P. Aas Evam Vikas Parishad. With respect to that there was an agreement entered into with M/s. SGS Construction & Development (P) Ltd. On 26.8.2010, whereas, with respect to the said exchanged land, the deposit of title deed was made by the Maharaji Education Trust in favour of HUDCO on 27.7.2011. This Court has considered the question of charge on the property in the judgment rendered by this Court in Maharaji Educational Trust Vs. Housing and Urban Development Corporation Limited & Ors., (2017) 14 SCC 453.

3. This Court has considered the aforesaid question of the charge within the purview of Sections 70, 63 and Section 118 of the Transfer of Property Act, 1882, whether land obtained in exchange could be said to be accession of the property. This Court has discussed the matter thus :

"38. Thus in our opinion property 21 acres obtained in exchange by Educational Trust cannot be said to be accession within the purview of section 70 of TP Act.

39. In the instant case the property was exchanged by the Educational Trust with Avas Parishad in the year 2007. Agreement had been entered into with SGS Constructions on 26.8.2010 for a sum of Rs.154 crores in order to pay the dues of HUDCO and a sum of more than Rs.9 crores had also been paid to Educational Trust which was

deposited by it with HUDCO. Deposit of title deed has been made by Educational Trust subsequently on 27.7.2011 with HUDCO but prior to that an agreement to sale had been entered into for the aforesaid 21 acres of land which was unencumbered. Thus at the time when the agreement had been entered into, the property was unencumbered and was not under mortgage with HUDCO. Thus agreement with regard to 21 acres was not interdicted by interim order of DRT. Thus SGS Constructions by making a huge payment of Rs.9 crores had acquired a right over the said unencumbered property. Thus HUDCO will not have the first right to sell the 21 acres of land which was unencumbered which was subject matter of agreement to sell. HUDCO will have the right for other mortgaged properties to realize the dues at the first instance."

4. This Court has passed the following operative portion in the order:

"42. Thus we direct as under :

42.1. That Educational Trust is directed to settle scheme of repayment with HUDCO within one month and to start payment of dues w.e.f. month of June, 2017.

42.2. On failure of Education Trust as per aforesaid direction or in case of default it would be open to HUDCO to sale approximately 43 acres of the land which was mortgaged with it to realize its dues in the legally permissible manner.

42.3. In case the proceeds from sale of approximately 43 acres of land are not sufficient to satisfy the dues of HUDCO, it would be open to sale property No.1 to 5 or its part which may be necessary for realization of the outstanding dues.

42.4. However, 21 acres of property which has been obtained in exchange from Awas Parishad cannot be sold. It is only in the circumstance if Arbitrator disallows the claim of SGS Constructions for purchase of 21 acres of said property can be sold not otherwise. That too if dues of HUDCO remain outstanding after sale of approximately 43 acres of land out of Item No.6 mortgaged initially and property item No.1 to 5 which are under mortgage.

Let the Arbitrator also expedite the matter and decide the proceedings as far as possible within two months."

5. It is clear from the order passed by this Court that a scheme was to be submitted by the Maharaji Education Trust. However, no viable scheme was submitted as such the same was not accepted by the HUDCO. Thereafter, auction of property of 43 acres was held twice but no buyer turned up. This Court has passed the following order on 9.2.2018 :

"1. Heard learned counsel for the parties.

2. This court has decided the matters on 8.5.2017 and following observations were made in para 20-21:

"20. The Educational Trust is running various institutions and hospitals but at the same time it is not making payment of dues of loan amount to HUDCO by which money it established them. The DRAT in its order dated 6.10.2010 in Appeal Nos.120/2008 and 124/2008 has noted conduct of Trust and recorded the following findings:

"74. From the above said facts and circumstances the following points emerge:

(b) Before HUDCO they moved OTS for Rs.240 crores whereas HUDCO was claiming Rs.250 crores or more. However, the Court was informed that OTS was for Rs.75.07 crores only. The earlier OTS moved for Rs.80 to 90 crores had found no favour with the HUDCO authorities. How it could have agreed to the proposal of Rs.75.07 crores only. Even after I heard the final arguments, the borrowers moved yet one more application for not announcing the judgment as they wanted to settle the matter with HUDCO. I gave them 15 days more time. It transpired that they had again made proposal in the sum of Rs.75.07 crores. It is apparent that the borrowers want to bid for time on one

pretext or the other. In this respect mala fides are writ large on them.

(e) At best, it can be said that the borrowers had no intention to apply for OTS at Rs.240 crores. The authorities were, however, misled. Meeting of minds is the *sine qua non* of an agreement coercion, force, misrepresentation, fraud or anything of the like have no place at all. Although, the action of the borrowers borders the contempt of court, yet due to lack of mens rea, lack of proper and direct evidence not touching the heart of the problem, it would not be worthwhile to initiate action under the Contempt of Courts Act or under Section 340 Cr.P.C.

(f) However, at the same time, the conduct, misrepresentation and bizarre behaviour of the borrowers cannot be swept under the carpet. It is very easy to gauge into antecedents of borrowers particulars that of Dr. Mahalingam who is responsible and liable for admitted interpolations and alterations. Can allegations against Mr. Naresh Chandra and two/three officers of HUDCO without being substantiated any cogent and plausible evidence come to the rescue of the borrowers? All these facts and circumstances will be put in the scales of Justice and their pros and cons would be evaluated as per law. One fact is clear that the borrowers deserve no sympathy at all. Since all these drama was created to take a few dates, therefore, instead of taking action under the Contempt of Court Act and Section 340 Cr.P.C. it would be worthwhile to come to the main point and action be initiated accordingly."

21. It is apparent from averments made by the Trust itself that it has more than 700 employees and 3000 students are taking education but it is shocking and surprising that the amount due to HUDCO taken as loan in 1995 is not being paid which has amassed to approximately Rs.480 crores at present."

3. The conduct was noted ultimately in para 40 and requisite directions for the sale of property in phased manner were issued in para 42 of the order.

Following directions were issued:

"42. Thus we direct as under:

(1) That Educational Trust is directed to settle scheme of repayment with HUDCO within one month and to start payment of dues w.e.f. month of June, 2017.

(2) On failure of Education Trust as per aforesaid direction or in case of default it would be open to HUDCO to sale approximately 43 acres of the land which was mortgaged with it to realize its dues in the legally permissible manner.

(3) In case the proceeds from sale of approximately 43 acres of land are not sufficient to satisfy the dues of HUDCO, it would be open to sale property No.1 to 5 or its part which may be necessary for realization of the outstanding dues.

(4) However, 21 acres of property which has been obtained in exchange from Awas Parishad cannot be sold. It is only in the circumstance if Arbitrator disallows the claim of SGS Constructions for purchase of 21 acres of said property can be sold not otherwise. That too if dues of HUDCO remain outstanding after sale of approximately 43 acres of land out of Item No.6 mortgaged initially and property item No.1 to 5 which are under mortgage. Let the Arbitrator also expedite the matter and decide the proceedings as far as possible within two months."

4. Thereafter, the Education Trust failed to comply with the order. In support of the order nothing has moved as such. The petitions were moved in this court. The recovery became impossible. This court has passed further order on 28.8.2017 so as to comply with the order. Defiance of the order of this court was noted. This Court directed the auction of the property as per the direction No.2 of para 42 of property of 42.845 acres. Following orders were passed subsequently on 20th September, 2017 :

"Heard the learned Solicitor General and learned senior counsel appearing for the parties.

These applications have been filed by the applicants in which it has been stated that the directions of this Court in the main judgment are being violated by inclusion of some of the part of the property, which was obtained under exchange, shown at Serial No.4 which could not have been sold and the property mentioned at Serial Nos.2 and 3 in that order are to be sold first. It is conceded that due to some error the discrepancy in the notification for auction has been made as some more area has been mentioned. It should have been 42.845 acres only. Thus, we direct that a corrigendum be issued within 48 hours by the Recovery Officer from the receipt of this order.

Secondly, we make it clear that the order in which property is to be sold has been clearly mentioned by this Court in the main judgment. The reserved price for 42.845 acres is Rs.317 crores. Obviously, in case the proceeds are not sufficient, the property mentioned at direction No.3, Item 1 to 5 shall have to be sold. Let the auction be held as scheduled on 6th October, 2017 and the bids of the auction be placed before this court for confirmation and consideration on 9th October, 2017.

The learned Solicitor General stated that the demarcation of the area is also required to be done. Let the demarcation be done between area obtained on exchange and area which has been put to auction. The demarcation be done and it will be mentioned in the notification for auction also, within 48 hours from the receipt of the copy of this order. List on 9th October, 2017.

(Emphasis supplied)"

5.The auction was held on 6th October, 2017 but it appears that no buyer turned up. Again this

Court has passed following order on 9th October, 2017:

"As was expected by this Court, auction has not taken place even, on the date fixed, for the purpose of auction of the property, as no bidder came to offer the bid.

As ordered by this Court, demarcation had to be done. Demarcation has been done only a day before, that is, on 5.10.2017, however, same ought to have been done, as per the order passed by this Court, much earlier. It was submitted that a Public Notice has been issued by M/s. S.G.S. Construction & Developers Pvt. Ltd., pointing out the litigation which are pending in the matter.

It was also submitted on behalf of the M/s. S.G.S. Construction & Developers Pvt. Ltd. that they are ready to purchase the entire property, including the Medical College etc., for approximately Rs.4,840,000,000/- (Rupees Four Hundred Eighty Four Crores) liquidating the entire amount. Statement is placed on record. However, it was submitted by learned Solicitor General, appearing for HUDCO, that the land is likely to fetch a better value in an auction.

Let auction be held first with the respect to the property mentioned at Serial No.2 viz. 42.845 acres. The auction be held on 13th November, 2017. Notice for auction to be issued by tomorrow, by concerned officer, including in the notice, the orders which have been passed by this Court which have a bearing on the rights of the parties.

Learned Solicitor General appearing for HUDCO, as prayed, is granted liberty to upload all orders alongwith the auction notice, including the factum of demarcation and maps etc. of the said property to be auctioned.

It was assured that once the orders are uploaded on the website, no further

public notice shall be issued by the parties. None of the parties shall indulge in any public notice so as to interdict the auction.

It is open to M/s. S.G.S. Construction & Developers Pvt. Ltd. to participate in the public auction. List the matter on 17th November, 2017."

6. Again the auction was held for 42.845 acres of land, however, it could not succeed as no buyer turned up. Thereafter, on 21st November, 2011 this Court noted that not a penny has been paid by the Education Trust and the auctions held have failed to bring any buyer as willingness was shown by M/s. S.G.S. Construction and Developers Pvt. Ltd., the agreement holder, to purchase the property and to pay the amount to HUDCO. HUDCO had made an offer to make the sale and to give 5 per cent rebate on the reserve price. The reserve price fixed for auction was Rs.317/- crores. M/s. S.G.S. Construction has prayed for grant of further rebate that has been declined by the board and it has been resolved that it would only give 5 per cent rebate over the reserve price fixed for auction. Prayer has been made to this Court to provide further rebate but it is not for this Court to provide any rebate.

7. Ultimately, it has been agreed by HUDCO as well as by M/s. S.G.S. Construction and Developer Pvt. Ltd. to finalise the deal with 5 per cent rebate in the reserve price. The amount thus worked out as:

Reserve price	=	Rs.317.00 crores
(minus) 5 %	=	Rs.15.85 crores
	=	Rs.301.15 crores

8. As the offer is accepted by M/s. S.G.S. Constructions and Developers Pvt. Ltd as made by HUDCO, let the amount be paid within three months from today. On the amount being deposited, proper conveyance deed shall be executed by the HUDCO in favour of M/s. S.G.S. Construction and Developers Pvt. Ltd. with respect to 42.845 acres of land, within seven days of payment and the conveyance charges shall be borne by the purchaser.

9. An application has been filed by HUDCO for freezing the accounts of the Maharaji Education Trust, who is the willful defaulter. Let reply be filed within 15 days.

10. Let the amount of Rs.25/- crores be deposited, as submitted, within three days from today.

11. List on 23.2.2018."

6. An agreement was entered into between the M/s. SGS Constructions & Developers Pvt. Ltd. and HUDCO to purchase the property, i.e., 42.845 acres of land, mentioned in paragraph 42.2 of the aforesaid judgment for a sum of Rs.301.15 crores, out of which 25 crores have already been deposited by M/s SGS Constructions & Developers Pvt. Ltd. to HUDCO, and the remaining amount is required to be deposited by 9.5.2018.

7. A compromise application had been filed on 9.4.2018. Following is the compromise reached between the parties:

**"IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**M.A.NO. OF 2018
 IN
C.A.NO.6466 OF 2017**

BETWEEN :

**SGS Construction & Developers
Pvt. Ltd.**

...Appellant

Versus

Housing and Urban Development
Corporation Ltd. & Ors.
HUDCO Bhawan, India Habitat Centre
Lodhi Road, New Delhi, Through
its Chairman & Managing Director....Respondents

AND IN THE MATTER OF :

1. SGS Construction & Developers Pvt. Ltd.,
through its Director Mr. Rajeev Sood, having
its Registered Office at R-10, Green Park
Main, New Delhi.
2. Maharaji Educational Trust, through its
Chairman & Managing Trustee, No.1, Santosh
Nagar, Pratap Vihar, Ghaziabad-201 009
(UP)
3. Dr. P. Mahalingam, Chairman & Managing
Trustee, Maharaji Educational Trust, No.1,
Santosh Nagar, Pratap Vihar, Ghaziabad -
201 009 (U.P.) ...Applicants

AN APPLICATION FOR COMPROMISE BETWEEN THE
PETITIONER i.e. SGS CONSTRUCTION & DEVELOPERS PVT.
LTD., RESPONDENT NO.2, MAHARAJI EDUCATIONAL TRUST
AND RESPONDENT NO.3, DR. P. MAHALINGAM AND
APPROPRIATE DIRECTIONS

Most Respectfully Showeth-

"1. That by way of the present application it is hereby mutually agreed between the parties i.e. SGS Construction and Developers Pvt. Ltd. (Petitioner) represented through Director, Mr. Rajeev Sood authorized by Board Resolution dated 2nd April 2018, true copy of the Board Resolution dated 2nd April, 2018 is annexed herewith as Annexure A-1, Maharaji Educational Trust (Respondent No.2) represented through its Chairman and Managing Trustee Dr. P. Mahalingam (Respondent No.3) fully authorized by the Trustees by Resolution dated 7th April, 2018 true copy of Resolution dated 7th April, 2018 is annexed herewith as Annexure A-2, that the disputes with respect to a piece of land admeasuring 20.605

acres bearing Khasra Nos.44M, 45, 46, 47, 48 & 49 situated at Village Shabhad Urf Mithepur, Paragna Loni Tehsil & District Ghaziabad, bearing Khasra No.6P, 7, 13, 15, 16, 17, 18M, 20M, 22, 24, 28M & 45M situated at Village Akbharpur Behrampur, Paragna Loni Tehsil & District Ghaziabad, bearing Khasra No. 116M, 118M, 119, 121M, 124, 126, 129, 135, 138, 139, 164M & 165M situated at Village Mirjapur, Paragna Loni Tehsil & District Ghaziabad (as mentioned in the Exchange Deed dated 04.05.2007) shall come to an end as per the terms of compromise recorded in this application.

2.That an Agreement to Sell (which is under dispute) dated 26.06.2010 was executed between Maharaji Educational Trust, Dr. P. Mahalingam and SGS Construction and Developers Pvt. Ltd, for an area admeasuring 63.45 acres situated at village Akbarpur Behrampur, Mirjapur & Shabhad Urf Mithepur, Pargana Loni, Tehsil and Dist. Ghaziabad U.P.

3.That vide order dated 08.05.2017, this Hon'ble Court held that 20.605 Acres of land is not mortgaged to HUDCO, accordingly after the said order, dispute regarding the said land remained only between M/s SGS Construction & Developers Ltd., and Maharaji Educational Trust which is now being resolved by the present compromise application.

4.That vide order dated 09.02.2018, this Hon'ble Court has permitted SGS Construction & Developers Pvt. Ltd., to purchase 42.845 acres of land for a total sum of Rs.301.15 Crores to be paid within a period of three months from the date of the said order.

5.That now the Petitioner (SGS Construction & Developers Pvt. Ltd.) and the Respondent Nos.2 and 3 (Maharaji Educational Trust & Dr. P. Mahalingam) have decided to settle all disputes amongst themselves with respect to the land in question and it has been agreed by the Respondent No.2 and 3 on one hand and the Petitioner on the other that the 20.605 acre land bearing Khasra Nos.44M, 45, 46, 47, 48 & 49 situated at Village Shabhad Urg Mithepur, Paragna Loni Tehsil & District Ghaziabad, bearing Khasra No. 6P, 7, 13, 15, 16, 17, 18M, 20M, 22, 24, 28M & 45M situated at Village Akbharpur Behrampur, Paragna Loni Tehsil & District Ghaziabad, bearing Khasra No.116M, 118M, 119, 121M,

124, 126, 129, 135, 138, 139, 164M & 165M situated at Village Mirjapur, Paragna Loni Tehsil & District Ghaziabad (as mentioned in the Exchange Deed dated 04.05.2007 shall be purchased by the Petitioner herein for an amount of Rs.40.85 crores. The said amount has been arrived at by a calculation as noted in the above noted disputed Agreement to Sell dated 26.08.2010 as follows :

Total area 20.605 acres x Rs.2.42 crores per acre = Rs.49.86 crores

Advance paid by SGS Construction & developers Pvt. Ltd. to the Maharaji Educational Trust = Rs.9.01 crores

Total amount payable by SGS Construction & Developers Pvt.Ltd. To Maharaji Educational Trust Rs.49.86 crores - Rs.9.01 crores = Rs.40.85 crores

6.That it has been agreed that an amount of Rs.40.85 crores shall be paid by SGS Construction & Developers Pvt. Ltd., in favour of HUDCO by way of a Demand Draft through Recovery Officer, DRT II Delhi on or before 31.05.2018 before the concerned Sub-Registrar and on receipt of said amount, a Conveyance Deed with respect to said land, details of which have been set out above, shall be executed in favour of SGS Construction & Developers Pvt. Ltd. on the very same day.

7.It is further agreed between the parties that SGS Construction & Developers Pvt. Ltd. shall buy both parcels of land i.e. 42.845 Acres and 20.605 Acres simultaneously / on the same day or SGS Construction & Developers Pvt. Ltd. will first buy 42.845 Acres and only then SGS Construction & Developers Pvt. Ltd. shall be entitled to buy 20.605 Acres of land as per the present Agreement.

8.That the present compromise have been entered into having regard to the fact that the Petitioner SGS Construction & Developers Pvt. Ltd. is already buying the 42.845 acres of land for a sum of Rs.301.45 crores (as per the order dated 09.02.2018 passed by this Hon'ble Court) which the Petitioner is required to pay on or before 09.05.2018. In any event the entire parcel of land has to be bought by SGS Construction & Developers Pvt. Ltd. on or before 31st May, 2018.

9. That Maharaji Educational Trust and its Chairman & Managing Trustee Dr. P. Mahalingam undertakes not to refuse the execution of sale deed of 20.605 acres in favor of SGS Construction & Developers Pvt. Ltd. in the event SGS Construction & Developers Pvt. Ltd. has purchased 42.845 acres of land within the stipulated time.

10. It is agreed between Maharaji Educational Trust, Dr. P. Mahalingam and SGS Construction & Developers Pvt. Ltd. that the Recovery Officer DRT-II, Delhi may execute a proper deed with respect to 20.605 acres of land in favour of SGS Construction & Developers Pvt. Ltd. as soon as the Demand Draft is handed over by SGS Construction & Developers Pvt. Ltd. to Recovery Officer, DRT-II, Delhi shall also handover all the original Sale Deeds and Exchange Deed pertaining to the entire land to SGS Construction & Developers Pvt. Ltd., on SGS Construction & Developers Pvt. Ltd. handing over the Demand Draft to Recovery Officer, DRT-II Delhi, the Recovery Officer DRT-II, Delhi shall also handover the peaceful, vacant possession of the land free from any encumbrances whatsoever to SGS Construction & Developers Pvt. Ltd. before the Sub-Registrar.

11. It is clearly understood and agreed between the parties that time is essence of this agreement and it will not bind parties beyond the stipulated date I.1. 31.05.2018.

12. That Maharaji Educational Trust and its Chairman & Managing Trustee Dr. P. Mahalingam have assured SGS Construction & Developers Pvt. Ltd. and gives an undertaking to this Hon'ble Court that 20.605 acres of land which is the subject matter of present agreement is not mortgaged/encumbered in favour of any other third party and there is no charge or lien of any party including financial institutions/banks, other than HUDCO.

13. That Maharaji Educational Trust and its Chairman & Managing Trustee Dr. P. Mahalingam have assured SGS Construction & Developers Pvt. Ltd. and further gives an undertaking before this Hon'ble Court that 20.605 acres of land which is the subject matter of present agreement is not subject matter of any dispute with any other third party except SGS Construction & Developers Pvt. Ltd. and HUDCO.

14. That Maharaji Educational Trust and its Chairman & Managing Trustee Dr. P. Mahalingam have assured SGS Construction & Developers Pvt. Ltd. and further gives an undertaking before this Hon'ble Court that there are no dues to be paid either statutory or contractual with respect to 20;.605 acres of land and therefore the said property is free from any financial liability whatsoever, except the liability if any of HUDCO and SGS Construction & Developers Pvt. Ltd.

15. That Maharaji Educational Trust and its Chairman & Managing Trustee Dr. P. Mahalingam have assured SGS Construction & Developers Pvt. Ltd. and further gives an undertaking before this Hon'ble Court that the Trust has not accepted any compensation from any Government Department/ Government undertaking or any other Government Authority with respect to 20.605 acres of land and have further assures that the said land has not been acquired by any Government including the State and Central Government or any other such authority.

16. That the parties to the present agreement undertake that any pending cases before any Court/ Tribunal/Arbitration or any other authority with respect to the land in question and incidental thereto or proceedings arising out of HUDCO loan in question against each other, and/or interse disputes and claims shall be withdrawn and in any event shall be deemed to be withdrawn by the respective parties and the parties further agreed and undertake that after the execution of the conveyance deed between them no further litigation shall be initiated with respect to 20.605 acres of land.

17. After giving effect to this Agreement in totality, no dispute or litigation shall be kept pending any any manner whatsoever between the parties.

18. That the present agreement has been executed by the free Will of all the three parties and the parties undertake that they were not put under any force, coercion or pressure to enter and execute the present compromise.

19. That all the parties to the present compromise application undertake to be present in the Hon'ble Supreme Court, if any statement is

required to be recorded.

20. That in view of this Compromise between all the three parties i.e. SGS Construction & Developers Pvt. Ltd. (Petitioner) represented through Director Mr. Rajeev Sood, Maharaji Educational Trust (Respondent No.2) represented through its Chairman and Managing Trustee Dr. P. Mahalingam (Respondent No.30 that the disputes with respect to a piece of land admeasuring 20.605 acres bearing Khasra Nos.44M, 45, 46, 47, 48 & 49 situated at village Shabhad Urf Mithepur, Paragna Loni Tehsil & District Ghaziabad, bearing Khasra No.6P, 7, 13, 15, 16, 17, 18M, 20M, 22, 24, 28M & 45M situated at Village Akbharpur Behrampur, Paragna Loni Tehsil & District Ghaziabad, bearing Khasra No.116M, 118M, 119, 121M, 124, 126, 129, 135, 138, 139, 164M & 165M situated at Village Mirjapur, Paragna Loni Tehsil & District Ghaziabad (as mentioned in the Exchange Deed dated 04.05.2007) and other related disputes stands finally settled, and none of the parties shall have any claim with respect to the same in future.

PRAYER

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

- i. Allow the present compromise application and record the compromise entered into between the respective parties as set forth in the present application and further direct that the parties shall be bound by the terms of compromise as also the undertaking set forth herein; and
- ii. Direct the Recovery Officer, DRT-II, Delhi to execute a proper Conveyance Deed in favour of SGS Construction & Developers Pvt. Ltd. simultaneously when the amount in the form of Demand Draft is handed over before the Sub Registrar by SGS Construction & Developers Pvt. Ltd. in favour of HUDCO with respect to 20.605 Acres of land.
- iii. Direct HUDCO through Recovery Officer-II, Delhi to release the original documents with respect to the land in question at the time of the

execution of the conveyance deed before the Sub-Registrar in favour of SGS Construction & Developers Pvt. Ltd. with simultaneous receipt of Rs.40.85 crores from SGS Construction & Developers Pvt. Ltd.

- iv. Pass any such other and further order/s as this Hon'ble Court may deem fit and proper in the interest of justice.

Applicant No.1
SGS Construction & Developers Pvt. Ltd.

Filed by
M.Y. Deshmukh
(Advocate on Record for the Applicant No.1)

Applicant Nos.2 & 3
Maharaji Educational Trust
Dr. P. Mahalingam

Filed by
N. Rajaraman
(Advocate on Record for the Applicant No.2 & 3)

Place New Delhi
Dated 09.04.2018"

8. Agreement is precisely for the proportionate value of the land for which the agreement of the entire land of approximately 63.45 acres was entered into for a sum of Rs.154 crores. It is precisely for the value as per the agreement entered into between the parties and compromise has been entered into for which the arbitration is pending. Earlier a sum of Rs.9.01 crores was paid by the SGS Construction & Developers Pvt. Ltd. to the Maharaji Education Trust. That was admittedly deposited with the HUDCO towards clearance of the arrears in question. The

amount has now amassed to approximately Rs.471 crores as on 30.4.2018. That includes simple interest @ 16.5 per annum as per the order passed by the DRT/DRAT which has attained finality.

9. With respect to the mode of sale, it is apparent from the aforesaid paragraph 42.2 of the main decision that the property has to be sold firstly as contained in paragraph 42.2, thereafter paragraph 42.3 and property in paragraph 42.4, i.e., 21 acres cannot be sold, as first charge is of SGS Construction & Developers Pvt. Ltd. It is only in case the first charge of the SGS Construction & Developers Pvt. Ltd. was defeated, an agreement to sale is not entered in arbitration proceedings and it was not decided in their favour, only in that event the second charge of the HUDCO was to be entered in the event of failure of claim of SGS Construction in the arbitration proceedings and only then it was to be open, as per the final order passed by this Court, to the HUDCO to sell the said property in paragraph 42.4 and not otherwise. That too, for realization of dues, remaining dues, if any, after sale of the other properties delineated in paragraphs 42.2. and 42.3 of the aforesaid order.

10. Thus, it is clear that in the course of arbitration proceedings also it was open to the SGS Construction & Developers Pvt. Ltd. and Maharaji Education Trust to enter

into an agreement with respect to at least 20.605 acres of the land, mentioned in paragraph 42.4 of the order, over which the first charge was that of the SGS Construction & Developers Pvt. Ltd. Thus, when there is a compromise entered into between the parties, SGS Construction & Developers Pvt. Ltd. and Maharaji Education Trust for sale of the aforesaid land, HUDCO cannot have any right to object to it. As the money which is being paid as per agreement, admittedly that has to be deposited with the HUDCO. Thus, the objection that has been raised in the application is found to be untenable and allowing that would be against the very spirit of the order that has been passed in the main matter decided on 8.5.2017, quoted above.

11. Thus, we find no substance in the application. We affirm the compromise entered into between the parties and hold it to be valid and enforceable. However, it is subject to the rider that the amount shall be deposited by SGS Construction & Development (P) Ltd. in the loan account for the outstanding liability of Maharaji Education Trust towards HUDCO. It is assured on the amount being so deposited and the amount of the property of 42.845 acres of land, which is Rs.301.15 crores, the Board of Directors of HUDCO would take a call on the final settlement and try to settle the amount finally to be paid by the Maharaji Education Trust towards its dues. Money has to be

deposited within the time limit specified.

12. Since there was a dispute with respect to the compromise by the HUDCO, extension of time to deposit the amount of Rs.301.15 crores is also sought.

13. Let the entire amount be deposited, including as per the compromise, by 31.5.2018. No further extension to be granted. The applications for compromise stand disposed of accordingly.

.....J.
[ARUN MISHRA]

.....J.
[UDAY UMESH LALIT]

New Delhi;
24th April, 2018.

ITEM NO.2

COURT NO.10

SECTION XIV

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

M.A.Nos.293-295/2017 in C.A.Nos.6463-6465/2017

MAHARAJI EDUCATION TRUST

Petitioner(s)

VERSUS

HOUSING & URBAN DEVELOPMENT CORPORATION LTD. & ORS. Respondent(s)
 (For clarification/modification, directions and for freezing the accounts of Respondent No.2-Trust and clarification/direction)

WITH

M.A.No.346/2017 in C.A.No.6466/2017 @ SLP(C)No.5425/2017
 (For appropriate orders/directions)

M.A.No.1018/2017 in C.A.No.6466/2017 @ SLP(C)No.5425/2017
 (For appropriate orders/directions)

M.A.No.506/2018 in C.A.No.6466/2017 @ SLP(C)No.5425/2017
 (For appropriate orders/directions)

M.A.No.749/2018 in C.A.No.6466/2017 @ SLP(C)No.5425/2017
 (For appropriate orders/directions)

M.A.No.1747/2017 in C.A.No.6466/2017
 (For clarification/direction/appropriate orders and permission to file addl. documents)

CONMT.PET.(C)No.1593/2017 & CONMT.PET.(C)Nos.1590-1592/2017
 in C.A.Nos.6463, 6464, 6465 & 6466 of 2017
 (With appln.(s) for appropriate orders/directions)

REVIEW PETITIOND.No.31927/2017

CONMT.PET.(C)Nos.1804-1806/2017 in M.A.Nos.293-295/2017 in
 C.A.Nos.6463-6464/2017

Diary No.31927/2017

Date : 24-04-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
 HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s)

Mr. N. Rajaraman, AOR

Mr. Vikas Singh, Sr. Adv.
 Mr. Aarohi Bhalla, Adv.
 Ms. Omita Unnarkar, Adv.
 Mr. M.Y. Deshmukh, AOR
 Mr. Chandan K. Mandal, Adv.

For Respondent(s)

Mr. Ranjit Kumar, Sr. Adv.
 Mr. Rajat Dasgupta, Adv.
 Mr. Anshul Chodhary, Adv.
 Mr. Prashant Panigrahi, Adv.
 For Mr. Nikilesh Ramachandran, AOR

HUDCO

Mr. Narendra Hooda, Sr. Adv.

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

M.A.NOS.293-295/2017, 1018/2017, 346/2017, 1747/2017 & 749/2018, CONTEMPT PETITION (C)NOS.1590-1592 & 1593 OF 2017, I.A. NOS.101777, 7057 & 19439 OF 2018 & I.A.No.43413 :

The applications as well as the contempt petitions are dismissed as withdrawn in terms of the signed order.

However, the material placed in M.A.No.749/2018 can be used by the HUDCO, in case the occasion demands.

I.A.NO.56029/2018 in C.A.No.6466/2017, I.A.No.8154/2018 & M.A.No.506/2018 :

The applications for compromise stand disposed of in terms of the signed order.

(Sarita Purohit)
 Court Master

(Jagdish Chander)
 Branch Officer

(Signed order is placed on the file)