

ITEM NO.1

COURT NO.4
(HEARING THROUGH VIDEO CONFERENCING)

SECTION IV

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

Miscellaneous Application No.50 of 2019 in Civil Appeal No.8788 of 2015

RAMESHWAR & ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(IA No.59743/2020 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.137407/2019 - FOR CLARIFICATION/DIRECTION; IA No.2254/2019 - FOR EXTENSION OF TIME; IA No.46028/2020 - FOR INTERVENTION/IMPLEADMENT; IA No.84064/2020 - FOR IMPLEADMENT; IA No.84065/2020 - FOR DIRECTION; and, IA No.84067/2020 - FOR EXEMPTION FROM FILING ORIGINAL NOTARIZED AFFIDAVIT)

WITH

CONTEMPT PETITION (C) No.2226 OF 2018 in C.A. No.8788/2015 (IV)

MA No.864/2019 in C.A. No.8788/2015 (IV)
(FOR ADMISSION; IA No.68542/2019 - FOR APPROPRIATE ORDERS/DIRECTIONS)

MA No.1046/2019 in C.A. No.8788/2015 (IV)
(IA No.73379/2019 - FOR PERMISSION; and, IA No.73380/2019 - CLARIFICATION/DIRECTION)

MA No.1175/2019 in C.A. No.8788/2015 (IV)
(IA No.93822/2019 - FOR CLARIFICATION/DIRECTION; and, IA No.82000/2020 - FOR DIRECTIONS)

Diary No.24553/2019 (IV)
(IA No.62216/2020 - FOR PERMISSION; IA No.189667/2019 - APPROPRIATE ORDERS/DIRECTIONS; IA No.102358/2019 - APPROPRIATE ORDERS/DIRECTIONS; and, IA No.83251/2020 - FOR CONDONATION OF DELAY IN FILING REJOINDER AFFIDAVIT)

Diary No.26552/2019 (IV)
(IA No.110995/2019 - FOR CLARIFICATION/DIRECTION)

Diary No.45009/2019 (IV)
(IA No.30807/2020 - FOR PERMISSION; IA No.191983/2019 - FOR APPROPRIATE ORDERS/DIRECTIONS; IA No.3406/2020 - FOR CLARIFICATION/DIRECTION; and, IA No.3403/2020 - FOR INTERVENTION APPLICATION)

Diary No.45026/2019 (IV)
(IA No.192027/2019 – FOR APPROPRIATE ORDERS/DIRECTIONS)

Diary No.7888/2020 (IV)
(IA No.36484/2020 – FOR PERMISSION; IA No.36487/2020 – FOR APPROPRIATE ORDERS/DIRECTIONS; and, IA No.36485/2020 – FOR INTERVENTION/IMPLEADMENT)

CONTEMPT PETITION (C) No.513 of 2020 in C.A. No.8788/2015 (IV)
(I.A. No.75955/2020 – FOR EXEMPTION FROM FILING AFFIDAVIT)

MA No.1521 of 2020 in CA No.8788/2015 (IV)
(IA No.76602/2020 – FOR INTERVENTION/IMPLEADMENT; and, IA No.76605/2020 – FOR APPROPRIATE ORDERS/DIRECTIONS)

Date : 13-10-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE HRISHIKESH ROY

Counsel for the Parties:

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Mr. Sanjeev Prakash Upadhyaya, Adv.
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 Mr. Ravinder Kumar, Adv.
 Ms. Sugandha Sharma, Adv.

Mr. Parijat Kishore, AOR
 Mr. Deepak Dhingra, Adv.

Mr. Amit Pawan, AOR
 Mr. Rajat Kapoor, Adv.
 Mr. Rohit Rajershi, Adv.

Mr. Shish Pal Laler, Adv.
 Mr. Ravi Panwar, AOR

Dr. Kedar Nath Tripathy, AOR

Mr. S.S. Jauhar, AOR

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

At the outset, Mr. Dushyant Dave, learned Senior Advocate appearing for Paradise Systems Pvt. Ltd. submitted that Interim Application No.93822/2019 preferred by State of Haryana be decided first before any other applications or issues are taken up for consideration. Suggestion so made was supported by the learned Counsel appearing for the State. Consequently, Interim Application No.93822/2019 was taken up for consideration.

Mr. Alok Sangwan, learned AAG for the State submitted inter alia:

- (A) In three cases (the details of the landholders being available in paragraph 13 of the application), the Collaboration Agreements were entered into by the concerned landholders after 27.08.2004.
- (B) Those Collaboration Agreements were taken note of by the officials of the State and directions were issued by the State.

- (C) As a result of such directions, an extent of about 40 acres of land as shown in the Map at Page 189 of the application was allowed to be developed by the concerned builders, namely, Conway Developers Pvt. Ltd. (presently known as "Frontier Home Developers Pvt. Ltd."), Karma Lakeland Ltd. and Paradise System Pvt. Ltd."
- (D) However, the extent of land admeasuring 25.95 acres covered by Licence No.206/16.12.2008 in favour of Karma Lakeland Ltd. is still lying undeveloped.

Mr. Sangwan then submitted that this Court may clarify whether these extents of land stand covered and form part of the deemed Award or not.

The prayer in that behalf made in the application reads as under:

"Clarify as to whether the judgment dated 12.03.2018 passed by this Hon'ble Court in SLP (C) No.5725/2015 (subsequently converted into Civil Appeal No. 8788 of 2015) would also cover such lands (mentioned in Para 13) which were purchased prior to the date of Section 4 notification i.e. 27.08.2004 but were transferred by the landholders during the period 27.08.2004 till 29.01.2010 by way of collaboration agreements in favour of other party/parties, will form part of the deemed award or not in view of the judgment dated 12.03.2018."

Mr. Dave, learned Senior Advocate appearing for Paradise Systems Pvt. Ltd. stated that the purchase by his client was well before the issuance of Section 4 Notification and the concerned land was part of Section 6 declaration. However, it was submitted that on true construction of the entire judgment and particularly direction "b" issued in para 39 of the

judgment, the land purchased by his client would be outside the scope of judgment and as such his client was entitled to develop the land.

Mr. Shekhar Naphade, learned Senior Advocate appearing for Frontier Home Developers Pvt. Ltd. supported the submission advanced by Mr. Dave and stated that the factual contours in the case of his client were identical; in that the lands were purchased before Section 4 notification and were covered by Section 6 declaration.

Mr. Brijender Chahar, learned senior counsel appearing for Karma Lakeland Ltd. (in respect of extent 25.95 acres of land) accepted that his client was the holder of the land on the date when Section 6 Notification was issued. It was further submitted that the Collaboration Agreement in the case of his client was also before Section 4 Notification was issued.

Mr. Anil Grover, Senior Additional Advocate General, Haryana appearing for the State submitted that lands covered by Section 6 declaration were to the tune of 688 acres and construing direction "b" of Para 39 of the judgment of this Court, the State extended benefit to the extent of 268 acres of land and has declared said extent of 268 acres of land to be outside the deemed award.

Since the submissions raised by the State in I.A. No.93822/2019 and the submissions advanced by Mr. Dushyant Dave, Mr. Shekhar Naphade and Mr. Brijender Chahar, learned Senior Advocates go to the root of the matter, it is deemed appropriate to deal with this application and the submissions advanced by

the learned Senior Advocates before we take up the other issues.

In order to facilitate the decision, we call upon the State to submit following details before the next date of hearing:

- a) Whether the application is confined to three cases stated in Para 13 or there are other such cases as well in which event the details in that behalf shall be placed on record with sufficient particulars.
- b) The orders passed by the State in respect of three parcels of land of the holders mentioned in Para 13 of the application as well as in respect of other matters, if any, shall be placed on record.
- c) Whether any appeals or revisions were preferred against the original orders?
- d) All copies of the orders must be furnished and the names of the officials who passed the orders must be disclosed.
- e) What is the present status of development at the Site must also be indicated with sufficient details and particulars.
- f) The pictures of the Sites must also be produced.

The clients of Mr. Dushyant Dave, Mr. Shekhar Naphade and Mr. Brijender Chahar, learned senior counsel are also called upon to furnish following details:

- (a) What kind of development has been undertaken pursuant to permission issued by the State Authorities?
- (b) What is the present status of development?
- (c) The extent of third party right created by the developers.

(d) Whether the construction has been completed and transactions with third party have fructified?

All the aforesaid details shall be submitted alongwith affidavits of the concerned officials of the developers namely, Frontier Homes Developers Pvt. Ltd., Paradise System Pvt. Ltd. and Karma Lakeland Ltd.

We list the matter for further consideration on 03.11.2020 at 10.30 am.

Pending further considerations, no third-party rights shall be created and no fresh development in respect of the entire 268 acres of land shall be undertaken.

All three aforesaid developers are injuncted from creating any fresh third-party rights and going ahead with development of unfinished works at the Site except those related to maintenance and upkeep of the site.

(RAJNI MUKHI)
COURT MASTER(SH)

(PRADEEP KUMAR)
BRANCH OFFICER