

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 28th February, 2012

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W.P.(C) 1502/2011

% **SADHU RAM GUPTA & ORS.** Petitioners
Through: Mr. Vijay Sharma with Mr. V.R.
Sharma & Mr. K.L. Mishra, Advs.

Versus

GOLDEN FORESTS (INDIA) LTD. & ORS. Respondents
Through: Mr. Shailendra Bhardwaj & Mrs.
A.S. Bhardwaj, Advs. for R-1.
Mr. Harpawan Kumar Arora, Adv.
for Golden Forests Committee.

CORAM :-

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

J U D G M E N T

RAJIV SAHAI ENDLAW, J.

1. The company Golden Forests (India) Ltd. (GFIL) was incorporated in the year 1987 and its subsidiary companies Golden Tourist Resorts and Developers Ltd. and Golden Projects Ltd. were incorporated in the year 1991 and 1996 respectively. GFIL and its subsidiary and associate companies floated a number of schemes and they successfully collected large sums of money from the public with effect from the year 1991 onwards. The Syal family comprising of Late Sh. Amrit Lal Syal, his son

Late Sh. R.K. Syal, his daughter Ms. Pamila Syal and their other family members were solely managing the affairs of the Golden Group of Companies. Late Sh. R.K. Syal was the Managing Director of the GFIL and Ms. Pamila Syal was the Managing Director of Golden Projects Ltd. Late Sh. Amrit Lal Syal was the Legal Advisor and also holding other important positions in the company.

2. GFIL and its other subsidiary and associate companies ran into rough weather in the year 1998 and criminal investigation, income tax investigation and an inquiry by the Securities and Exchange Board of India (SEBI) were initiated against the said companies. GFIL and Golden Projects Ltd. were collecting large investments through the various schemes introduced by them, from public all over India. So much so, that in the years 1996 and 1997, they collected hundreds of crores of rupees. The companies were issuing post-dated maturity cheques to the investors. The companies from the year 1999 onwards started defaulting in payment and finally in the year 2000, the companies shut their business. Late Sh. Amrit Lal Syal, Late Sh. R.K. Syal, Late Mrs. Neena Syal (Wife of Late Sh. R.K. Syal), Ms. Pamila Syal (sister of Late Sh. R.K. Syal) were arrested on 24.12.2000.

3. A number of petitions for liquidation of the companies were filed in the Punjab and Haryana High Court and also in some other High Courts. The various High Courts passed restraint orders against the Directors, servants and other officials of the companies restraining them from

alienating the properties. On an application moved by the SEBI, all the petitions pending in the various High Courts of India were transferred to the Supreme Court. The Supreme Court also, from time to time passed orders restraining the management of the company and its officials / servants from transferring / alienating any of the properties. These orders are in force till date.

4. The Supreme Court vide its order dated 19.08.2004 directed the Committee hereinafter called the Golden Forests Committee (GFC) to take into its custody all the assets of the companies, wherever they may be. For the purpose of enabling the GFC to take charge of the assets, all the authorities including the Police, District Magistrates etc. were directed to give all necessary assistance.

5. The Supreme Court subsequently appointed this Court to supervise the functioning of the GFC aforesaid.

6. The six petitioners claim to be the *bona fide* purchasers of property No.570, Sector-12, Panchkula, Haryana, vide Sale Deed dated 09.02.2010 executed in their favour by Sh. Nikhil Kant Syal and Ms. Madhurima Syal being the children of Late Sh. R.K. Syal aforesaid. They further claim to have paid the entire sale consideration and to have been put into possession of the said property.

7. It however appears that the GFC approached the Haryana Urban Development Authority (HUDA) with a claim that the said property, though in the name of Sh. Nikhil Kant Syal and Ms. Madhurima Syal

aforesaid, had been purchased by the monies belonging to GFIL and its other associate companies and claiming rights in the said property. Owing to the said claim of the GFC, HUDA did not mutate the property in its records from the name of Sh. Nikhil Kant Syal and Ms. Madhurima Syal to the name of the petitioners leading the petitioners to file an application in W.P.(C) No.1399/2010 pertaining to GFIL pending in this Court and seeking to restrain the GFC from claiming the aforesaid property to be belonging to it and further seeking a direction to the GFC to withdraw the letter written by it to HUDA. The application was directed to be registered as a writ petition and which was so registered as the instant petition.

8. Notice of the petition was issued and the GFC has filed its reply reiterating its claim over the said property. Mr. H.K. Arora, Advocate for GFC has also argued before us that the said Sh. Nikhil Kant Syal and Ms. Madhurima Syal were minor at the time of purchase of the property in 1994 and the presumption is that the consideration for the property was paid out of the funds of GFIL and its other associate companies.

9. On the contrary, the counsel for the petitioners has argued that the petitioners are the *bona fide* purchasers of the property aforesaid for value and are already the owners thereof by virtue of the Sale Deed executed in their favour and are in possession of the property and were constrained to move this petition only for the reason of the mutation of the property in their favour having been held up owing to the objection raised by GFC. It is further submitted that the petitioners would be unable to prove the

source of consideration for purchase of property by Sh. Nikhil Kant Syal and Ms. Madhurima Syal. It is further contended that since GFC is now in control and custody of books of account and records of GFIL and its other associate companies, GFC ought to have produced proof of consideration for purchase of the said property in the name of Sh. Nikhil Kant Syal and Ms. Madhurima Syal having flowed from the coffers of the company.

10. Mr. Shailendra Bhardwaj, the counsel for the ex-management of the GFIL states that a copy of the petition should be directed to be given to him and the ex-management be permitted to file a reply to the application.

11. We however find that the GFC in the present case has not had an opportunity to adjudicate the claim of the petitioners and to return its findings thereon. Mr. H.K. Arora, Advocate for the GFC states that the occasion therefor did not arise since the petitioners instead of approaching the GFC, chose to directly file this writ petition in this Court.

12. This Court is to only exercise the powers of review over the decisions / orders of the GFC. In the present case there is none. We are of the view that instead of this Court adjudicating the said claims, it is appropriate in the first instance that the GFC looks into the matter and considers whether there is any occasion for treating the property aforesaid as the property of GFIL or its associate companies. Only if it so found, would the GFC be entitled to object to the mutation of the property in the name of the petitioners. As far as the request of the ex-management is concerned, we direct the ex-management of GFIL also to participate in the

inquiry to be so conducted by the GFC and if the stand of the ex-management is that the property aforesaid belonged to Sh. Nikhil Kant Syal and Ms. Madhurima Syal and GFIL and its associate companies have nothing to do with it, to submit proof thereof before the GFC.

13. The petition is accordingly disposed of with the direction aforesaid and with a further direction to the petitioners to make their claim / representation before the GFC within 15 days of today and the GFC to decide and pass a reasoned order on the said application / representation within two months thereof.

No order as to costs.

RAJIV SAHAI ENDLAW, J

ACTING CHIEF JUSTICE

FEBRUARY 28, 2012

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