

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

Decided on: 22.07.2013

+ **W.P.(C) 8539/2011, C.M. APPL. 19312/2011**

NIKHIL KANT SYAL AND ANR. Petitioners

Versus

COMMITTEE GOLDEN FOREST LIMITED AND ANR
..... Respondents

+ **W.P.(C) 1399/2010, C.M. APPL. 4306/2010, 5546/2010, 5547/2010, 3988/2013**

NATIONAL INVESTOR FORUM REGD. Petitioner

Versus

GOLDEN FORESTS INDIA LTD. Respondent

+ **W.P.(C) 1400/2010**

NATIONAL INVESTORS FORUM Petitioner

Versus

GOLDEN FORESTS INDIA LTD. Respondent

Appearance: Sh. Ashok Kumar Singh, Sh. Naresh Kumar Gaur and Sh. H.C. Sharma, Advocates, Item No. 23, for petitioner.
Sh. Rajeev Sharma, Advocate, for Resp. No.1 in Item No.23.
Ms. Prachi. V. Sharma, Advocate, for Resp. No.2 in Item No. 23 (Item No.3988/2013)

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

MR. JUSTICE S.RAVINDRA BHAT (OPEN COURT)

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W.P.(C) 8539/2011, C.M. APPL. 19312/2011

1. The writ petitioners seek appropriate directions for quashing of an advertisement dated 07.10.2010 whereby an extent of approximately 2.5 acres of farmland – (Khasra Nos.52/8/1 measuring 3 kanals 10 marlas; 9/1/1 measuring 2 kanals 9 marlas; 26 measuring 1 kanal 10 marlas; 52/2/1 measuring 0-13 marlas; 2/1 measuring 4 kanal 4 marlas; 46/21 measuring 0-16 marlas; 52/2/2 measuring 1 kanal 8 marlas; 52/3 measuring 7 kanal 2 marlas is Hadbast No.237 in Khatauni 289, Village Billa, Tehsil Panchkula, Haryana) has been issued by the Committee appointed by the Supreme Court to deal with the assets and claims in respect of the erstwhile GFIL (GFIL) and its group companies.

2. The petitioners argued in essence that on the strength of a registered sale deed of the year 1992 (20.05.1992, 10.04.1992 and 20.04.1992) that they are the owners from the successors-in-interest of the original owners to the extent of certain undivided shares in the property. The petitioner is the son of one Ms. Neena Syal and Sh. R.K. Syal. It is not in dispute that both the erstwhile owners, i.e. Ms. Neena Syal and Sh. R.K. Syal have died in 2010 and 2011 (31.10.2010 and 06.04.2011). The petitioners claim to be entitled as heirs of original owners of their share in the said properties.

3. The petitioners contend that the order of the Supreme Court dated 05.09.2006 by which the Committee respondent was constituted and empowered and granted certain powers, in fact, did not enable it to take over or deal with

properties that did not belong to the GFIL or its group companies which were expressly mentioned. Learned counsel relied upon the following extracts of the said order:

“The Company, its Directors, Officers, Employees, agents and/or power of attorney holders are restrained from alienating, encumbering, creating any third party rights or transferring in any manner whatsoever any of the assets of the Company and/or their personal assets and restrained from making any withdrawals from any of the accounts.

Proposal for appointment of committee recorded.

All applications for intervention/impleadment filed by the depositors/investors stand dismissed.

The depositors/investors must submit their claims before the Committee which will be appointed by the Court who will consider their claims. This Court will then decide how the assets of the Company should be distributed.

No other Court or Forum or Tribunal any claim or application for return of monies or interest as this Court will deal with the same after realization of all assets. If any claims already filed, the same shall remain stayed.

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4. The Court further stated as follows:

“37. The Committee is put at liberty to put to sale the properties at Village Jharmari, lands at Village Kot Billa, Jaswant Garh and other adjoining villages and a Resort at Nalagarh and other properties of GFIL, possession of which has already been taken by the Committee, by auction after due publicity. The sale shall be subject to the confirmation by this Court. After the properties are put to sale, the Committee shall report to this Court about the auction sale effected which shall be subject to the final orders of this Court.”

5. It is contended on the basis of the sale deeds that the petitioners’ right to these properties cannot be disputed and that the Committee exceeded its jurisdiction to take over the same and proceeding to decided it.

6. Sh. Harpawan Kumar Arora, learned counsel for the respondent Committee relied upon the reply of the respondents to the writ petition and the supplementary reply filed on behalf of the Committee. It is pointed out that the writ petition has been deliberately filed after considerable delay and the Court should desist from exercising its powers under Article 226. In these circumstances, it was submitted that the so-called original owner's share to which each petitioner claims to be entitled, i.e. Neena Syal never approached the Court or even complained of the property having been illegally taken-over by the Committee. It is submitted that the only original co-owner alive – Pamela Syal has till date not complained about the lack of jurisdiction of Committee. Learned counsel also pointed out that the averments in the reply stating that the endorsement in the document at the back of the sale deed itself mentioned that the property belonged to GFIL Group of Companies. He relied upon a true copy of the balance sheet (as on 31.03.1998) and enclosed along with the supplementary reply to submit that the GFIL Group of Companies had in fact all along treated the properties as its own. Learned counsel also submitted that the order of the Supreme Court is categorical in that no Court or forum or Tribunal can deal with the question of title or assets and that having regard to these circumstances and its explicit orders of the Supreme Court, any exercise of jurisdiction under Article 226 is not warranted.

7. This Court has carefully considered the submissions and averments. The materials on the record by way of sale deed relied upon undoubtedly disclose that the title to the properties were that of Pamela Syal and Neena Syal; the latter was entitled to an extent of 1/4th share. Having said that, at the same time, the Court is cognizant of the circumstance that the possession of the property was also taken over by the Committee when the GFIL voluntarily handed-over its assets on 30.09.2004. At that time, Neena Syal was alive as was the other co-owner Ms. Pamela Syal. Neither of them chose to agitate their grievance. Ms. Pamela Syal is alive – although in jail having been refused bail and has not impugned the action of the Committee. The Court is, however, conscious of the circumstance that the

co-owner through the petitioner claims to have inherited ¼th share when Mrs. Neena Syal and Sh. R.K. Syal died, as late as in 2011. These circumstances are sufficient for the Court to be circumspect in exercising jurisdiction. Ordinarily the Court would have relegated the petitioner to a Civil Court to seek his remedies. In the facts and circumstances of this case, having regard to the previous history where the Supreme Court confirmed the orders of the Bombay High Court (which had in turn enjoined its companies and its directors from dealing with or encumbering the property by the GFIL and its group companies from the year 1998) and the order of 17.08.2004 which was quoted in the subsequent order – that has been extracted above, the Court categorically ruled out exercise of jurisdiction by any other Court. Although the petitioners' arguments appears to be facially attractive that it is only the GFIL property which can be exclusively dealt with by Committee and that other properties do not fall within its powers, the facts of this case are revealing in as much as the petitioners are seeking to agitate the question of title almost nine years after possession was handed-over. In view of the above discussion, the Court is of the opinion that the exercise of writ jurisdiction is not warranted; equally, the Court cannot grant the petitioners the liberty to approach the Civil Court as doing so would be indirectly opposite the effect of the Supreme Court's order which sought to give finality to the matters and was also aimed at ensuring that the investors are assured of the return of the capital with some reasonable interest. This Court also notices that the property was sold pursuant to confirmation of the proposal, in C.M. No. 9034/2011. The GIFL seems to have refused to confirmation. Eventually, on 11.08.2011, this Bench confirmed the sale to M/s. S.A.S. Properties by the Committee. For the above reasons, the writ petition along with pending application are dismissed.

C.M. APPL. 4306/2010, 5546/2010 & 5547/2010 IN W.P.(C) 1399/2010

List on 25.07.2013.

C.M. APPL. 3988/2013 IN W.P.(C) 1399/2010

Sh. Rajeev Sharma and Ms. Prachi. V. Sharma, Advocates appear on behalf of the respondents. Reply, if any, may be filed before the next date of

hearing.

List on 29.08.2013.

**S. RAVINDRA BHAT
(JUDGE)**

**NAJMI WAZIRI
(JUDGE)**

JULY 22, 2013