

\$~6

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

+ W.P.(CRL) 2741/2019 & CRL.M.A. 36752/2019

SHASHI KAUSHIK & ORS.

..... Petitioners

Through: Mr Pragyan Sharma, Mr Eeshan Pandey, Mr Mudit Makhijani and Mr Chandra Goswami, Advocates.

versus

MINISTRY OF CORPORATE AFFAIRS & ORS. Respondents

Through: Mr Anurag Ahluwalia, CGSC with Mr Abhigyan Siddhant, Advocates for R-1 and R-3.

Ms Pratiksha Tripathi, proxy for Mr Ajay Verma, Advocates for R-19.

Ms Karuna Nundy, Mr Ishaan Karki and Ms Ragini Nagpal, Advocates for R-19 and R-27.

SI Kamal Kohli, PS EOW.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

07.11.2019

1. The petitioners have filed the present petition, *inter alia*, praying that directions be issued to the Ministry of Corporate Affairs to initiate investigation by the Serious Fraud Investigation Office (SFIO) into the affairs of the company – PDM Hi-Tech Homes (Prabhu Shanti Real Estate Pvt. Ltd).

2. Mr Sharma, learned counsel appearing for the petitioners has drawn the attention of this Court to complaints dated 05.09.2019 regarding the

affairs of the said company, *inter alia*, praying that (a) a Forensic Audit be conducted in respect of the affairs of Prabhu Shanti Real Estate Pvt. Ltd; and (b) an investigation be conducted into the affairs of Prabhu Shanti Real Estate Pvt. Ltd and other related companies by SFIO. Copies of the complaints are annexed with the present petition.

3. It is one of the grievances of the petitioners that the said complaints have not been examined.

4. Mr Ahluwalia, learned counsel appearing for the Central Government states that first of all the said complaints have been addressed to the Ministry of Corporate Affairs and not to the appropriate authority. He also states that there are other persons as well who have filed similar complaints.

5. It has also been pointed out that an FIR against the said company has been registered with regard to various offences including the offence under Section 420 of the IPC. Apart from the above, proceedings under the Insolvency and Bankruptcy Code, 2016 has also been initiated against the company in question.

6. At this stage, this Court is not inclined to examine the merits of the complaints made. The question whether any investigation is required to be conducted by the SFIO under the provisions of the Companies Act, 2013 is required to be considered by the Central Government in the first instance.

7. Taking into view the totality of the circumstances including the other proceedings that have been initiated by various flat buyers, who are similarly placed as the petitioners, this Court considers it apposite to dispose of the present petition by directing the Central Government to consider the petitioners' request for appointing the SFIO to conduct the investigation, and

take an informed decision thereon. The petitioners are also at liberty to make a fresh representation with regard to their grievances. If such a representation is made within a period of two weeks from today, the same would be considered by the Central Government as well.

8. The said decision would also be communicated to the petitioners.

9. The petitioners have also sought other reliefs including the directions be issued to the Reserve Bank of India to investigate the loans availed by the builder (PDM Hi-Tech Homes (Prabhu Shanti Real Estate Pvt. Ltd). The petitioners have also prayed that Institute of Chartered Accountants of India be directed to take appropriate disciplinary action against respondent no.14 (the statutory auditor of Prabhu Shanti Real Estate Pvt. Ltd). Insofar as these prayers are concerned, the petitioners do not wish to press these prayers at this stage.

10. Accordingly, the petition is disposed of with the aforesaid observations. The pending application is also disposed of.

11. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

NOVEMBER 07, 2019
MK