

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1454-2022 (O&M)

Date of decision : 22.04.2022

Om Parkash

... Petitioner(s)

Versus

Committee Golden Forest (India) Ltd. and Another

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.P. Bhandari, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

This is a civil revision petition under Article 227 of the Constitution of India for quashing the order dated 29.11.2021 passed by the Civil Judge (Junior Division), Chandigarh (Annexure P-4) in Civil Suit No.2332 of 2020.

The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for permanent injunction for restraining the defendant-respondents and their representatives from interfering in the occupation and peaceful possession of the plaintiff-petitioner in Flat No.6484 (Duplex), S.F.S., Flat Cat-III, with Scooter Garage, in Sector-C, Pocket 6 and 7 at Vasant Kunj, Delhi which is alleged to have *bonafidely* purchased by the plaintiff-petitioner from the defendant-respondent No.2. In the said suit, an application was filed under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) on behalf of the Committee-GFIL through B.M. Bedi, District and Sessions Judge (Retd.), Member stating therein that the suit was not maintainable in view of the orders dated 17.08.2004 and 15.10.2008 passed

by the Supreme Court in **T.C.(C) No.2 of 2004** titled **Securities & Exchange Board of India Vs. Golden Forests (India) Limited**.

The Trial Court, by a detailed order dated 29.11.2021, held that the Court had no jurisdiction to entertain the matter in view of the specific orders passed by the Supreme Court.

The Supreme Court on 17.08.2004 in T.C. No.2 of 2004 titled Securities & Exchange Board Of India vs Golden Forests (India) Limited had directed as under :

“By order dated 12th September, 2003 we directed that no other Court except this Court shall entertain any winding up proceedings relating to the respondent-Company. We now direct that no other Court or Forum or Tribunal will entertain any claim or application by depositors/investors for return of monies or payment of interest as these receipts will be dealt with by this Court after realization of all the assets. If any such claim is filed by any party before any Court or Tribunal the same shall stand stayed.”

A number of applications were filed by Golden Forests group companies claiming to be independent from M/s Golden Forests (India) Ltd. The Supreme Court vide its order dated 15.10.2008 passed in T.C. No.2 of 2004 specifically authorized the committee to take over all properties mentioned in the Assets Evaluation Report prepared by Dr. Namawati in 1988. The relevant portion of the order reads as under :

“In order to facilitate the disbursement due to the investors, the money has to be collected by selling these properties. The Committee is authorized to take

possession of all the properties owned by the respondents. If there are any valid claims in respect of any of these properties by third parties, the Committee may consider the same and pass appropriate orders, subject to confirmation by this Court.”

Learned counsel for the plaintiff-petitioner would contend that being a *bona fide* purchaser, the only remedy would be before the Civil Court and the Committee would have no jurisdiction to entertain the said claim of the plaintiff-petitioner. It has further been argued that the notice had been issued to the plaintiff-petitioner after a delay of 14 years. Learned counsel for the plaintiff-petitioner would further contend that M/s Golden Projects Limited (Regd.), defendant-respondent No.2, is not a subsidiary of M/s Golden Forests (India) Ltd. and, hence, the notice itself could not have been issued by the Committee since the winding up proceedings filed against M/s Golden Projects Limited remained pending in this Court till the year 2014.

Heard.

A perusal of the impugned order and the application filed for dismissal of the suit on behalf of the Committee-GIFL, defendant-respondent No.1 (copy of the application was handed over in Court as same is not a part of the file) reveals that the Supreme Court has authorized the Committee to take over the properties and assets of the company and those of the subsidiaries and to consider all third party claims and pass appropriate orders subject to confirmation by the Supreme Court. The plaintiff-petitioner, who is claiming a third party right in the suit property being a *bonafide* purchaser, on being issued a show cause notice by the Committee-

GFIL, defendant-respondent No.1, chose not to appear before the said Committee-GFIL nor chose to file any response and instead preferred the present suit. The learned counsel though has vehemently argued that the defendant-respondent No.2 is a separate entity and the Committee-GFIL, defendant-respondent No.1 has no jurisdiction to look into claims regarding third party rights in properties owned by defendant-respondent No.2, no document or order of the Supreme Court has been shown in this respect. Rather, this Court vide order dated 31.07.2015 passed in CA No.377 of 2015 in CP No.115 of 2002 had formed a separate Committee to deal with the assets of the defendant-respondent No.2. This order was stayed by the Supreme Court on 14.09.2015 in SLP No.25922-25925 of 2015 and it was ordered as under :

“Leave granted.

Ad-interim relief granted earlier shall continue.

It is directed that implementation of the order dated 7th August, 2015, passed by the Punjab and Haryana High Court in C.A.Nos.228 and 275 of 2015, shall remain stayed.

It is further directed that while passing any order, the Company Court shall consider the contents of the order dated 25th July, 2013, passed by the High Court of Delhi in Writ Petition (C) Nos.1399/2010 and 1400/2010.

It is clarified that old Committee, which was constituted prior to the passing of impugned order, shall continue to function.”

In view of the above, the impugned order dated 29.11.2021

(Annexure P-4) suffers from no illegality or infirmity and is hence upheld.

The present revision petition, being devoid of any merit, is dismissed.

Pending applications, if any, also stand disposed off.

Dismissed.

**(ALKA SARIN)
JUDGE**

22.04.2022
Yogesh Sharma

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO