

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

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Judgment delivered on: 29.08.2023

+ **CO.APP. 3/2021****M/S TIRUPATI CYLINDERS LTD. THROUGH
ITS DIRECTOR SHRI DINESH GOYAL Appellant**

versus

**M/S J.V.G. FINANCE LTD. SINCE IN
LIQUIDATION, THROUGH OFFICIAL
LIQUIDATOR, DELHI HIGH COURT Respondents****Advocates who appeared in this case:**

For the Appellant : Mr. Giriraj Subramaniam, Mr. Simarpal
Singh Sawhney, Mr. Siddhant Juyal, Mr. Joy
Banerjee & Ms. Urvashi Singh, Advs.

For the Respondents : Mr. Dheeraj Gupta, Adv. with Ms. Aneeta
Sharma, AR for Ex. Management.

Mr. Kunal Sharma, Mr. Subhendu
Bhattacharya & Ms. Mohini, Advs. for OL.

CORAM**HON'BLE MR JUSTICE VIBHU BAKHRU****HON'BLE MR JUSTICE AMIT MAHAJAN****JUDGMENT****VIBHU BAKHRU, J**

1. The appellant (hereafter 'TCL'), a company incorporated under the Companies Act, 1956 (hereafter 'the Companies Act'), has filed the present appeal under Section 483 of the Companies Act impugning



the order dated 07.08.2020 (hereafter ‘**the impugned order**’) passed by the learned Company Court in CA No.547/2011 in *Company Petition No.265/1998* captioned ***Reserve Bank of India v. M/s JVG Finance Ltd.***

2. TCL had filed the said application (CA No.547/2011), *inter alia*, impugning the recommendations made by Mr. G.P. Thareja – the one-man committee (hereafter ‘**the Thareja Committee**’) constituted by the learned Company Court to examine the claims in relation to JVG Finance Limited – in its Thirteenth Report dated 05.02.2007.

3. TCL had, *inter alia*, by way of an application, being CA No.1171/2003, prayed that it be granted permission to complete the registration / execution of sale deeds in respect of certain lands situated in district Gurgaon, Haryana as specifically described in the annexures to the said application. The parcels of the lands are hereafter collectively referred to as the said lands. The Thareja Committee had rejected TCL’s claim for conveyance of the said lands.

4. It is TCL’s case that it had purchased the said lands from various companies belonging to JVG Group of Companies acting through Mr. Vijay Kumar Sharma, Director of JVG Group of Companies. It is stated that Mr. Vijay Kumar Sharma had executed General Power of Attorneys (GPA’s) and the Agreements to Sell in favour of Mr. Dinesh Goyal, Director of TCL and had received the entire sale consideration towards the sale of the said lands.



5. A tabular statement setting out the names of the companies with brief description of the said lands, dates of the Agreements to Sell, and the consideration allegedly received are set out below:

"S.No.	Name of Company	Area of land Kanal Marla		Date of Agreement	Amount received as advance (Rs.)	Name of Villages of Distt. Gurgaon
1.	JVG Foods Ltd.	32 11	15 14	23.5.2002 10.6.2002	8,18,750 1,80,000	Sidhrawali Bohra Khurd
2.	JVG Housing Finance Ltd.	47 17 4	02 18 6	23.5.2002 23.5.2002 23.5.2002	11,77,500 4,47,500 1,07,500	Sidhrawali Bohra Khurd -Do-
3.	JVG Farm Fresh Ltd.	29 08	5 0	23.05.2002 10.06.2008	7,31,250 2,00,000	Sidhrawali Bohra Khurd
4.	JVG Hotels Ltd.	32	8	23.5.2002	8,10,000	Sidhrawali
5.	JVG Steels India Ltd.		15	23.5.2002	18,750	Sidhrawali
Total					44,91,250"	

6. The learned Company Court, *inter alia*, found that the transactions set up by TCL are fraudulent and a device to siphon of the assets of JVG Finance Ltd. The learned Company Court, accordingly, rejected TCL's claim in respect of the said lands.

7. TCL claims that it had purchased the said lands for a valuable consideration from the five JVG Group of Companies prior to the order interdicting such sale and prior to the institution of any proceedings for winding up of the said companies. Thus, the sale of the said lands were required to be completed by the execution of the sale deeds.

8. Before addressing the controversy, it is relevant to briefly refer to the factual context in which the controversy arises.

9. The Reserve Bank of India (hereafter '**RBI**') filed a petition under Section 45MC of the Reserve Bank of India Act, 1934 (hereafter '**the RBI Act**') for winding up of JVG Finance Ltd. RBI had found that



JVG Finance Ltd. had collected large amounts of funds from public at large and was of the view that continuance of its affairs would be detrimental to the public interest. Accordingly, RBI also prohibited JVG Finance Ltd. from accepting any further deposits.

10. The learned Company Court considered the aforesaid petition (Co. Pet. No.265/1998) and by an order dated 05.06.1998 appointed the Official Liquidator as the Provisional Liquidator to take charge of all the assets and properties of JVG Finance Ltd. The respondent company and its directors, servants and agents were also restrained from disposing of, alienating or parting with possession of any of its/their assets.

11. The Official Liquidator was also directed to take charge of two other companies (namely, JVG Leasing Ltd. and JVG Securities Ltd.) by orders passed in Co. Pet. No.266/1998 and 267/1998 respectively.

12. The learned Company Court by an order dated 03.09.2002 directed that notices be published in various newspapers having circulation in various cities considering that the depositors were from various parts of India. The learned Company Court also noted that there were large number of companies belonging to JVG Group of Companies where Mr. Vijay Kumar Sharma, Managing Director of JVG Finance Ltd. and his family members were involved and concluded that the corporate veil would be required to be lifted. In addition, the learned Company Court also interdicted any sale, alienation, transfer or creation of any third-party rights in any assets of



JVG Group of Companies without the permission of the learned Company Court.

13. The persons who had deposited funds with the aforementioned JVG Group of Companies, filed various applications, *inter alia*, claiming the refund of their deposits.

14. Admittedly, none of JVG Group of Companies could alienate or sell any of its assets after 03.09.2002 as the learned Company Court had interdicted the same. TCL claims that since it had entered into the Agreements to Sell in respect of the said lands prior to 03.09.2002, the sale and purchase transactions were not affected by the orders passed by the learned Company Court and that the said lands are required to be transferred to TCL.

Thareja Committee

15. The Thareja Committee was formed by the order dated 10.03.2006 passed by the learned Company Court in order to examine the claims filed by various investors. In the first instance, the Thareja Committee examined the various claims in respect of the properties of JVG Group of Companies. TCL had filed an application (CA No.1171/2003) for permission for completing the process of execution of the sale deeds and registration of the said lands. The said application was disposed of by the learned Company Court by an order dated 10.03.2006 with a direction to TCL to place its claims before the Thareja Committee.



16. Accordingly, TCL placed its claims before the Thareja Committee and in support of its claims filed the documents being the Agreements to Sell, the GPAs executed by Mr. Vijay Kumar Sharma on behalf of the selling companies, extract of the Minutes of the Board of Directors of the companies, few receipts purportedly issued by the said company and Certificates dated 01.05.2006 and 04.05.2006 issued by the State Bank of Bikaner & Jaipur and Punjab National Bank respectively, certifying that TCL had withdrawn cash on various dates between 17.05.2002 and 23.05.2002 from its bank accounts. The Thareja Committee examined the said documents and submitted the Thirteenth Report dated 05.02.2007 thereby, rejecting TCL's claims.

17. The Thareja Committee noted that as early as on 16.08.1999, the learned Company Court had directed that a comprehensive affidavit be filed setting out the details of the assets of the three companies (namely, JVG Finance Ltd, JVG Leasing Ltd. and JVG Securities Ltd.) as well as the other assets, which were in the name of Mr. V.K. Sharma, Managing Director as well as his wife and children. Mr. V.K Sharma was also directed to provide details of all assets and funds invested in other companies by the aforementioned three companies as well as the assets held by other JVG Group of Companies. By a subsequent order dated 14.10.1999, directions were also issued for depositing title deeds of certain lands situated in district Gurgaon, Haryana on the main Delhi-Jaipur highway.



18. Thereafter, a Contempt Petition (CCP No.20/2002) was filed by Chandigarh JVG Investors Welfare Society through its Secretary against Sh. V.K. Sharma and Sh. Dinesh Goyal alleging that the affidavit dated 08.09.1999 filed by Sh. V.K. Sharma did not disclose several assets of JVG Group of Companies. They also alleged that the said Contemnor had begun the process of disposing of the properties located in Tehsil Gurgaon, Haryana in villages Dinokari, Rathiwas and Sidharwali.

19. On 14.10.1999, the learned Company Court directed the deposit of title deeds of lands measuring 60 acres valued at ₹42 crores, which were located at district Gurgaon, Haryana on the main Delhi-Jaipur Highway with the Registrar of the learned Company Court. In addition, the learned Company Court acceded to the request of the learned counsel for JVG Group of Companies for inspection of the records lying in the offices of JVG Finance Ltd., JVG Leasing Ltd. and JVG Securities Ltd. in order to enable JVG Group of Companies to give details as to the properties and file the title deeds on record. The learned Company Court directed that the inspection would be carried on by one Mr. B.L. Rathi, Chartered Accountant on behalf of JVG Group of Companies and the same would be done in the presence of the Official Liquidator, the officials of RBI as well as the representatives of the investors. The exercise of seeking out the details of the properties and assets purchased by JVG Finance Ltd. or from the funds collected by that company continued.



20. On 03.09.2002, the learned Company Court noted that there were a large number of companies within JVG Group of Companies, where Sh. V.K. Sharma (Ex-Managing Director of JVG Finance Limited) and his family members were involved. The learned Company Court concluded that “*the exercise of lifting/piercing of corporate veil would have to be undergone*”. The conclusion drawn by the learned Company Court was after considering the identity of control of various JVG Group of Companies and the manner in which the affairs were conducted. The order dated 03.09.2002, directing that the corporate veil of JVG Group of Companies be lifted has become final and has not been challenged by TCL in any proceedings at the material time.

21. The Thareja Committee guided by the orders passed by the learned Company Court undertook the extensive exercise of ascertaining the assets of JVG Finance Limited, which included name of the said company as well as assets that were purchased by the funds of JVG Finance Limited *albeit* in the name of other group companies.

22. The Thareja Committee had summoned various persons and also examined them. The same included one Mr. Sushil Kumar Gupta as well as Mr. V.K. Sharma, the Ex-Managing Director of JVG Finance Ltd, who was also the Director of other companies of JVG Group of Companies.

23. Mr. Sushil Kumar Gupta appeared before the Thareja Committee and admitted to having been entrusted with the sum of ₹22.80 crores for purchasing the property. It was found that he had deposited the



amounts aggregating the aforesaid sum in his bank accounts with Indian Overseas Bank, Punjabi Bagh, West Delhi. The Thareja Committee found that the funds in his personal bank account had been received from Vijaya Bank, Corporation Bank and Bank of America. The accounts of JVG Finance Ltd. maintained with Vijaya Bank, Bhikaji Cama Place, New Delhi; Corporation Bank, Bhikaji Cama Place, New Delhi; and Bank of America, Connaught Place, New Delhi, were examined. The said accounts indicated that the sum of ₹22 crores had flown out of the accounts of JVG Finance Ltd.

24. The Thareja Committee found that out of the aforesaid amount of ₹22.8 crores, properties were purchased in the name of several JVG Group of Companies. A list of the lands purchased was submitted by Mr. Sushil Kumar Gupta to the office of the Official Liquidator. The said list indicated that lands for a sum of ₹2,23,19,848/- had been purchased in the names of JVG Foods Limited; lands of a value of ₹1,90,44,730/- were purchased in the name of JVG Housing Finance Limited; lands for a sum of ₹1,42,26,010/- were purchased in the name of JVG Farm Fresh Limited; lands for a sum of ₹1,41,09,867/- were purchased in the name of JVG Hotels Limited; and lands for a sum of ₹2,09,99,790/- were purchased in the name of JVG Steels Limited.

25. The Thareja Committee also examined the land records and found that the value at which the lands were recorded to have been sold by land owners, was less than the value as claimed by Mr. Sushil Kumar Gupta. This indicated that part of the funds of JVG Finance Ltd, which



were transferred to Mr. Sushil Kumar Gupta for the purchase of the said lands, were not accounted for.

26. The Thareja Committee concluded that the transactions between TCL and the five JVG Group of Companies were fraudulent and were executed to deceive the creditors of JVG Finance Ltd. The Thareja Committee found that the consideration for which the said lands were sold was significantly less than the consideration for which they were purchased and that some of the documents produced by TCL were clearly fabricated. The receipts produced to evidence the receipt of funds by the five companies bore the same number (that is “001”) which led the Thareja Committee to doubt the same.

27. TCL filed an application (CA No.547/2011), *inter alia*, praying that the recommendations made by the Thareja Committee in its Thirteenth Report dated 05.02.2007 in regard to TCL’s claim, be rejected. In addition, TCL also sought prayers for completing the transactions of sale and purchase of the said lands, by execution and registration of the sale deeds. TCL also prayed that the matter be referred to a newly constituted J.P. Aggarwal Committee for examining TCL’s claims.

Impugned order

28. The learned Company Court examined TCL’s claims in some detail. The learned Company Court considered the conclusion of the Thareja Committee and the material on which the recommendations were premised. In addition, the learned Company Court also considered



the report furnished by the Serious Fraud Investigation Office (hereafter **‘the SFIO’**) which indicated that the documents submitted by Sh. Dinesh Goyal (TCL) were examined and it was found that the resolution authorising Sh. V.K. Sharma to execute the Agreements to Sell and the GPAs on behalf of the five JVG companies were fabricated. Examination of the Minute Books indicated that no meetings were held as per the companies’ records. The report of the SFIO also indicated that Mr. V.K. Sharma, Ex-CMD of JVG Group of Companies had appeared before the concerned inspectors and could not give any reason for purchasing lands in the names of other JVG Group of Companies by using funds of JVG Finance Ltd. The SFIO’s report also concluded that Mr. V.K. Sharma had fabricated the documents for the sale of the said lands and also kept the entire consideration with himself.

29. According to TCL, the SFIO’s report supported its case to the extent that it had observed that Sh. V.K. Sharma had retained the consideration received for the sale of the subject lands. Thus, according to TCL, the SFIO’s report had acknowledged the fact that it had paid the consideration. TCL contended that the Thareja Committee report, which had concluded to the contrary, was erroneous.

30. The learned Company Court after examining the material available on record including the two reports (Thareja Committee report and the report furnished by the SFIO) concluded that Sh. V.K. Sharma was not authorized to conclude any transaction in respect of JVG Group of Companies (namely, JVG Goods Ltd., JVG Housing Finance Ltd., JVG Farm Fresh Ltd., JVG Hotels Ltd. and JVG Steels India Ltd.). The learned Company Court found that Sh. V.K. Sharma had acted in a



fraudulent manner and had attempted to siphon off funds of JVG Finance Ltd. by entering into these transactions.

31. The learned Company Court also noted that apart from the conclusions drawn by the Thareja Committee and the SFIO against TCL, there are several other aspects, apparent on the face of the record, which raised doubts about the *bona fides* of the transaction. The relevant extract of paragraph 31 of the impugned order is set out below:

“31.

(a) The first aspect is that the applicant claims that the property was purchased around 2002. It is further claimed that the applicant has physical possession of the property. This is despite the fact that there is un-rebutted evidence on record that there is no proper demarcation of the land. Even assuming that the applicant was in possession of the land in question for the last 18 years, there would have been surely some utilization of the land. There would be enough evidence with the applicant to demonstrate their possession on the land, namely, as to whether they are carrying out any farming on the land or they are using it for some commercial purpose or that they have rented out the property. The entire application and the submissions of the learned counsel for the applicant are completely silent about the same. There is no attempt to demonstrate that the applicant at any stage exercised any rights as a title owner for the property in question for the last 18 years/as a person in physical possession of the property. In the last hearing, it was urged that the land is being used for agriculture purpose. However, nothing to support this plea has been placed on record. Any such user of the property as claimed would have generated income for the applicant company. Such income would be reflected in its books of account/balance sheets/income tax records. None of these documents has been produced to show the manner in which the property is being utilized/is generating income for the company.



(b) I also cannot help noticing the conduct of the applicant. The applicant has failed to place on record the income tax records and balance sheets of the company. If such a purchase of properties had been made, surely the applicant company would have shown them in their balance sheets and filed appropriate returns with income tax department. The balance sheets and relevant income tax record of the applicant would have shown that this land has been shown as an asset of the company.

(ii) During the hearing a question was posed to the learned counsel for the applicant as to whether the company Tirupati Cylinders Ltd. has shown purchase of this property in the income tax records. Learned counsel for the applicant submitted that he does not have any instructions in this regard. Learned counsel was then asked as to whether the applicant company is using the land in question in any manner whatsoever. Learned counsel replied that perhaps they were using the land. This court further put a question as to whether the applicant company is receiving any rent from the land or any profit or revenue from the land. Learned counsel for the applicant replied that he does not know about the same.

(iii) The absence of these documents raises grave doubts on the bona fide of the transaction.

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(v) Clearly, in the facts of this case, it is the averment of the applicant that it has bonafidely purchased the property from the JVG Group of Companies in question in 2002. The burden of proof was on the applicant who has made the factual averment. Withholding and non-production of facts and documents which would have demonstrated that the applicant has purchased the property and has been dealing with the property since 2002 as an owner/title holder of the property, clearly permits the court to draw an adverse inference against the applicant. The best evidence has been hidden/suppressed by the applicant. This aspect negatives the legality and validity of the contentions raised by the applicant.



(c) That apart, what stands out is that large consideration is sought to be paid for sale of the property entirely in cash. This, itself, raises a suspicion about the bona fide and genuineness of the transaction. There is no reason to have paid the entire consideration of about Rs. 45 lakhs in cash as is claimed.

(d) It is also an admitted fact that the original title documents of the land that were executed in favour of the five companies who are allegedly the sellers of the land to the applicant, were not taken into possession by the applicant when the alleged sale was made. It is a standard practice that when a sale is made all title documents in favour of the seller are handed over to the purchaser. This is a prudent practice as it ensures that the title documents are not misused. On the contrary, as per the ex-management, the original sale deeds were lying with Sh. V.K. Sharma and have been filed by him in this court. This absence of possession of the original documents of title of the five companies from whom the land was bought with the applicant itself raises doubt on the bona fide of the sale transaction.

(e) The SFIO report also notes the conduct of Sh. Dinesh Goyal, the alleged person-in-charge of the applicant Company-Tirupati Cylinders Ltd. In para 4.1.7, SFIO notes that the said Sh. Dinesh Goyal has made sale deeds on behalf of JVG Foods Ltd., JVG Petrochemicals Ltd., JVG Housing Finance Ltd, etc. in favour of Defence Services Investors Forum without any consideration. It is manifest from these observations that Sh. Dinesh Goyal was a familiar figure with the JVG Group of Companies and was involved in some of the transactions relating to JVG Group of Companies/functioning of the said group. He is not a bona fide third party dealing with the JVG Group/the five companies in question for a bona fide sale of the properties.

(f) I also cannot help noticing the manner in which the applicant Company has been lingering along with its so called claim to the title of the property. On 22.07.2004, this court had referred the matter to the Thaeja Committee to give its recommendations on the claim raised by the applicant Company. On 24.11.2005 before the Thareja Committee, a statement was made on behalf of the applicant that they do



not wish to pursue the matter and sought withdrawal of the petition. Subsequently, on a request made by the applicant Company, on 10.03.2006 this court permitted the applicant to approach the Thareja Committee to substantiate its claim again. The Thareja Committee gave its XIIIth Report dealing with the claim of the applicant on 05.02.2007. It was in 2011 that the applicant, four years after the report had been given sought to move the court claiming that it had not received a copy of the report of the Thareja Committee dated 05.02.2007. It is clear that the applicant have permitted the matter to linger on and have not pursued the matter/the alleged claim in a diligent manner.”

32. Mr. Giriraj Subramaniam, learned counsel appearing for TCL sought to assail the impugned order on several grounds. First, he submits that the learned Company Court had failed to acknowledge that the transactions entered into by TCL for the purchase of the subject lands were *bona fide* transactions. Although, some of JVG Group of Companies were under liquidation but the five companies from whom TCL had purchased the said lands were not under liquidation and therefore, there was no impediment for the said companies to sell their assets. Second, he contends that the learned Company Court had failed to appreciate that the documents available with TCL conferred a legal right in respect of the lands in question and therefore, TCL was entitled to the relief as claimed. Third, he submits that the Agreements to Sell and the GPAs were duly registered with the concerned Sub-Registrar and therefore, were unimpeachable. Fourth, he claims that the Certificates issued by the Branch Managers of the nationalised banks where TCL maintained its accounts establishes that TCL had withdrawn cash from its bank accounts prior to entering into the Agreements to Sell in respect of the subject lands and therefore, there can be no doubt



that the consideration paid by TCL was duly supported by its books of accounts. Fifth, he contends that the stand of Sh. V.K. Sharma before the various authorities was contradictory and thus, could not be relied upon. Sixth, he submits that the decision in *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana & Anr.: (2012) 1 SCC 656* was wholly inapplicable as it did not invalidate any prior transaction. Lastly, he submits that the transaction of the sale and purchase could not be invalidated as a fraudulent preference under Section 531 of the Companies Act or avoided under Section 531A of the Companies Act.

Reasons and Conclusion

33. Before proceeding to briefly address the contentions advanced by the learned counsel for TCL, it is relevant to note that there are certain facts which are beyond any pale of any dispute. The facts discernable from the record, whether on the basis of the documents produced or the lack of it, clearly establish the same. First of all, there is no credible dispute that the funds for purchasing the lands had been diverted from JVG Finance Ltd. The Thareja Committee had examined Mr. Sushil Kumar Gupta. He had admitted that he was entrusted with the sum of ₹22.80 crores for purchasing the said lands. It was found that he had deposited the amount in his bank account with Indian Overseas Bank, Punjabi Bagh, West Delhi. It was established that these funds were received from the accounts with Vijaya Bank, Corporation Bank and Bank of America. The accounts of JVG Finance Ltd. maintained with those banks had established that a sum of ₹22 crores was transferred from the accounts of JVG Finance Ltd. Notwithstanding, that the consideration for the purchase of the subject lands was paid by JVG



Finance Ltd., the subject lands have been purchased in the name of five JVG Group of Companies (namely, JVG Goods Ltd., JVG Housing Finance Ltd., JVG Farm Fresh Ltd., JVG Hotels Ltd. and JVG Steels India Ltd.). As noted above, Mr. Sushil Kumar Gupta had submitted a list of the said lands purchased in the name of the companies belonging to JVG Group of Companies including the aforementioned five companies. There is no doubt that the said lands in respect of which TCL seeks execution of the Conveyance Deeds, were a part of the lands purchased by Sh. Sushil Kumar Gupta from the funds of JVG Finance Ltd.

34. There is no material on record which would establish that JVG Finance Ltd. had permitted the purchase of any property in the name of the other companies from its own funds. There is no justification whatsoever for using the funds of JVG Finance Ltd. for the purchase of the lands in the name of any other companies.

35. The inescapable conclusion is that purchasing property in the name of other entities amounted to siphoning of JVG Finance Ltd.'s assets to those companies. The five group of companies were under the same management and thus, were clearly accountable for the assets of JVG Finance Ltd. *albeit*, acquired in their name.

36. The second material fact in respect of which there is no credible challenge is that the copy of the resolution on the basis of which the Agreements to Sell and the GPAs had been executed is not recorded in the Minute Books of JVG Group of Companies. Thus, there was no resolution passed in favour of Sh. V.K. Sharma or any other person for the sale of the subject lands in favour of TCL.



37. TCL claims that it had paid the entire consideration in cash. TCL had relied on the SFIO's report to the limited extent that it acknowledged that Sh. V.K. Sharma had received the cash. However, there is no justification whatsoever for TCL to have paid the consideration in cash. According to TCL, it had withdrawn the funds from the bank on the day before, to make the said payments but there is no explanation as to why TCL found it necessary to pay the consideration in cash. It is obvious that TCL was aware that the transaction was a device to siphon the funds.

38. In view of the above, it is established that the funds of JVG Finance Ltd. were siphoned off to purchase the assets (subject lands) which were attempted to be sold on the basis of authority that did not exist. In our view, the aforesaid facts sufficiently indicate a scheme to siphon off the assets of JVG Finance Ltd.

39. The contention that the Agreements to Sell and the GPAs relied upon by TCL are unimpeachable as they were registered with the concerned Sub-Registrar, is unmerited. As noted above, Sh. V.K. Sharma has no authority to execute the Sale Deeds. No meeting of the Board of Directors of the concerned companies was held to pass the resolution on the basis of which the said documents were executed. Once it is accepted that the transactions for sale of the said lands were fraudulent and an exercise to defraud JVG Finance Ltd. and its depositors, the fact that the documents were registered with the concerned Sub-Registrar would be of little consequence.



40. TCL's primary contention that it is entitled to the subject lands, is premised on the basis that the five companies (namely, JVG Goods Ltd., JVG Housing Finance Ltd., JVG Farm Fresh Ltd., JVG Hotels Ltd. and JVG Steels India Ltd.) were not under liquidation at the material time and therefore, there was no impediment for the said companies to transfer their assets. The said contention is insubstantial. The petition for winding up JVG Finance Ltd. was filed in the year 1998. The learned Company Court had appointed the Official Liquidator as Provisional Liquidator of the said company on 05.06.1998. By a subsequent order dated 03.09.2002, the learned Company Court had concluded, after examining the structure of the group and the involvement of Sh. V.K. Sharma and his family members in the affairs of the company, that the corporate veil of the group companies was required to be lifted. The said order has not been impugned and has attained finality. If the corporate veil of JVG Group of Companies is lifted, it would follow that the date on which the Provisional Liquidator was appointed in respect of JVG Finance Ltd. would be relevant for unravelling the transactions entered into in the name of other companies as well. Lifting of the corporate veil of the companies would entitle the real transaction to be viewed *sans* the corporate façade. It is established that the funds of JVG Finance Ltd. were used for purchasing the subject lands *albeit* in the name of the other group of companies. The said assets are required to be accounted for all practical purposes as assets of JVG Finance Ltd. The corporate identity is relevant only till the corporate veil is not lifted. Once a court decides that the corporate veil



is to be pierced; the defence of a company being a separate juridical entity does not arise.

41. The orders passed by the learned Company Court after 05.06.1998 indicate that the endeavour of the learned Company Court was to trace and preserve the assets of JVG Finance Ltd. for winding up the said company. By the order dated 14.10.1999, the learned Company Court directed deposit of titled deeds of lands admeasuring 60 acres located at district Gurgaon, Haryana and exercise to find out details of properties and assets purchased from the funds of investors was under table. By an order dated 03.09.2002, the learned Company Court had expressly interdicted the sale of assets of JVG Group of Companies.

42. In the given facts, we find no infirmity with the view of the learned Company Court in rejecting the application seeking conveyance of the subject lands in its favour.

43. The appeal is accordingly dismissed.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 29, 2023

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