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

Date of decision: 28th MARCH, 2023

IN THE MATTER OF:

\+ **W.P.(CRL) 2577/2021 & CRL.M.A. 20788/2021, 8015/2022, 17754/2022, 24171/2022, 24207/2022**

VIKAS VERMA ..... Petitioner

Through: Mr. Darpan Wadhwa, Sr. Advocate with Mr. Sunil Dalal, Sr. Advocate along with Ms. ZebaKhair, Ms. Nimita Kaul, Ms. Shivambika, Ms. Nikita and Ms. Manisha Saroha, Advocates.
Mr. Sabarwal, Impleador in – person.

versus

STATE GOVT. OF NCT OF DELHI & ORS ...... Respondents

Through: Ms. Nandita Rao, ASC (Crl) for the State with Mr. Amit Peswani, Advocate.
Mr. Abhimanyu Bhandari, Ms. Roohe Hina Dua, Ms. Ananya Sikri, Mr. Akarsh Sharma, Advocates for R-3 to R-5 & R-7 to R-14
Dr. Harsh Pathak, Mrs. Shaveta Mahajan, Mr. Mohit Choubey, Mr. Sidharth Shukla, Advocates for R-17
Mr. Jatin Sehgal, Ms. Devna Soni, Mr. Ashish Garg, Ms. OjaswiniRohatagi, Advocates for R-19
Mr. Atul Nanda, Senior Advocate with Mr. Martand Singh, Ms. Vartika Aggarwal, Ms. Shivani Luthra, Advocates for R-20 to R-23
Mr. Vivek Goyal, CGSPC with Mr. Gokul Sharma, Advocate for

UOI/SFIO with Mr. Hemant Tyagi, IO, SFIO and Ms. Sonam Sharma.
Mr. Anupam S. Sharma, Special Counsel for ED with Mr. PrakarshAiran, Ms. Harpreet Kalsi and Mr. Abhishek Batra, Advocates.
SI Dharm Singh, PS Hauz Khas.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SATISH CHANDRA SHARMA, C.J.

1. The instant Writ Petition under Article 226 of the Constitution of India has been filed with the following prayers:

> *"a) Pass a writ of mandamus or any other appropriate writ, order or direction directing Respondent No. 2 / ED to investigate in a time bound manner, the various offences committed by Respondent Nos. 3 to 15 and other unknown accused persons under the provisions of Indian Penal Code, 1860 and Prevention of Money Laundering Act 2002 in relation to the alleged purchase of development rights by Respondent No. 5 / IPL in land parcel admeasuring 78 acres in Bhiwadi, Rajasthan for a consideration of INR 396 Crores;*
>
> *b) Direct Respondent No. 16 / SFIO to specifically investigate the fraudulent Bhiwadi Land Transaction and to extend the scope of investigation under Order No. 3/404/2018-CL-II (NR) dated 13.09.2019 to include connected parties and to file final report before this Hon'ble Court after completing the investigation in a time bound manner; the copy of the order dated 13.09.2019 is not provided with us;*

c) Pass a writ, order or direction for freezing of all assets of Respondent Nos. 3 to 15 and restraining them, their agents, directors, shareholders, heirs, employees or assigns, from selling, transferring, alienating or in any manner encumbering their assets, including any inter-corporate shares or investments held by them; or

d) Pass a writ, order or direction to Respondent No. 2 / ED for freezing of all assets of Respondent Nos. 3 to 15 and restraining them, their agents, directors, shareholders, heirs, employees or assigns, from selling, transferring, alienating or in any manner encumbering their assets, including any inter-corporate shares or investments held by them;

e) Direct Respondent Nos. 3 to 15 to deposit with this Hon'ble Court, sum of INR 396 Crores along with interest at 18% which has been siphoned off from Respondent No. 5 / IPL;

f) Monitor the investigations conducted by Respondent Nos. 1, 2 and 16 to ensure that it is fair, unbiased and impartial;

(g) pass any other or further orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case and in the interests of justice and equity."

2. Facts of the case reveal that the Petitioner herein booked a Managed Service Apartment, being Apartment No. ICC-MSA-RS12-03 in Ascott Ireo City Gurgaon Project (Ascott Project) being developed in Sector 59, Gurugram by IREO Private Limited (IPL)/Respondent No. 5.The Petitioner states that he, along with other homebuyers who had invested in the said project, have not been handed over their houses as assured by Respondent

No. 5. It is the Petitioner's apprehension that the money invested by these homebuyers, which was meant to be utilised for completion of projects is being diverted and siphoned off by Respondent No. 3 (Mr. Lalit Goya, VC & MD of IREO Group), Respondent No. 4 (Ms. Sapna Goyal, spouse of Respondent No. 3) and Respondent Nos.6 to 15 (which are companies owned or controlled by the promoters of IREO Group) under the garb of land transactions. The Petitioner has filed the present writ petition in the nature of a public interest litigation against one such alleged land transaction, namely the "*Bhiwadi Land Transaction*". It is the Petitioner's case that the Economic Offences Wing (EoW) of the Delhi Police/Respondent No. 1, the Enforcement Directorate (ED)/Respondent No. 2 and the Serious Fraud Investigating Office (SFIO)/Respondent No. 16 have failed to perform their duty of investigating into these allegations.

3. For a better understanding of the case at hand, the Petitioner herein as provided the structure of the IREO Group of Companies which is as under:

a. It is stated that two companies by the names of IREO Fund-II Ltd. and IREO Fund II Co-Investment-1 Ltd. (hereinafter referred to as "IREO Fund Companies") were incorporated in Mauritius and received an investment of around UDF 1.6 Billion between 2004-2009. These IREO Fund Companies infused money into wholly owned subsidiaries incorporated in Mauritius and/or Cyprus which infused equity into companies incorporated and operating in India.

b. It is stated that the IREO Group also incorporated IPL/Respondent No. 5, IREO Residencies Company Private Limited, IREO Grace Realtech Private Limited and IREO

Victory Valley Private Limited, which were subsidiaries of companies incorporated in Mauritius and ultimately held by IREO Fund Companies. In order to manage such a huge investment and to oversee real estate operations of the IREO Group, Respondent No. 3 was appointed as its Fund Manager, and so it is stated that Respondent No. 3 controlled the entire IREO Group of companies.

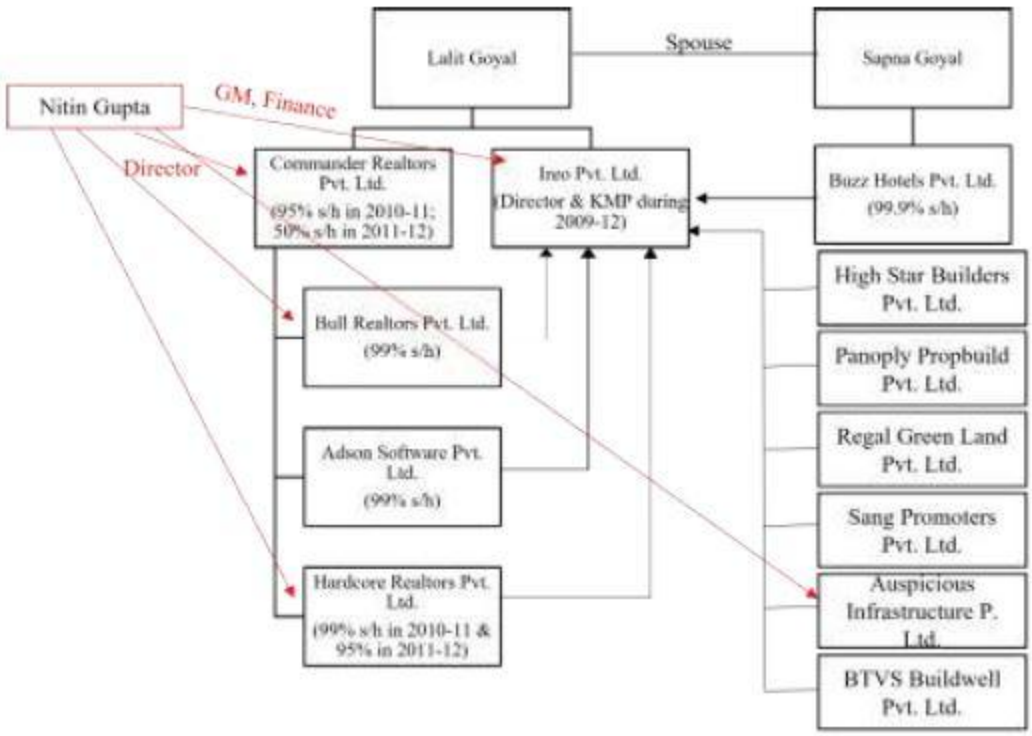
c. The IREO Group of Companies could be classified into Investing/Operating Companies (OCs) and land-holding companies (LOCs) which are owned by Respondent Nos. 3 & 4 and their relatives, friends and employees. These OCs would finance the LOCs to purchase land in various parts of India and it is on these lands that the IREO Group would offer to build real estate projects.

d. Relationship between the parties has been described as under:

Resp.	Name of LOC	Relationship
R 6	High Star Builders Pvt. Ltd.	• Common registered office as IPL • ICAI has held Respondent No. 6 to be a LOC of Ireo Group
R 7.	Panoply Propbuild Pvt. Ltd.	• Common registered office as IPL • ICAI has held Respondent No. 7 to be a LOC of Ireo Group • ICAI has treated Respondent No. 7 as an Ireo Group Company
R 8.	Regal Green Land Pvt. Ltd.	• ICAI has held Respondent No. 8 to be a LOC of Ireo Group • ICAI has treated Respondent No. 8 as an Ireo Group Company

R 9	Sang Promoters Pvt. Ltd.	• ICAI has held Respondent No. 9 to be a LOC of Ireo Group • ICAI has treated Respondent No. 9 as an Ireo Group Company
R 10	Auspicious Infrastructure P. Ltd.	• Common registered office as IPL • ICAI has held Respondent No. 10 to be a LOC of Ireo Group • Mr. Nitin Gupta who was the General Manager, Finance of Respondent No. 5 / IPL, and was key managerial personnel along with Respondent No. 3, was also a Director on the Board of Respondent No. 10.
R 11	BTVS Buildwell Pvt. Ltd.	• Common registered office as IPL • ICAI has held Respondent No. 11 to be a LOC of Ireo Group
R 12	Buzz Hotels Pvt. Ltd.	• ICAI has observed that 99.9% shares of Respondent No. 12 are owned by Respondent No. 4 who is the spouse of Respondent No. 3 • ICAI has held Respondent No. 10 to be a LOC of Ireo Group
R 13	Bulls Realtors Pvt. Ltd	• Common registered office as IPL • Owned & Controlled by

		Commander Realtors Pvt. Ltd. Respondent No. 3 owned 95% equity shares of Commander Realtors Pvt. Ltd. as observed by ICAI • Mr. Nitin Gupta who was the General Manager, Finance of Respondent No.4/IPL, and was key managerial personnel along with Respondent No. 3, was also a Director on the Board of Commander Realtors Pvt. Ltd. and Respondent No. 13
R 14	Adson Software Pvt. Ltd.	• Common registered office as IPL • Owned & Controlled by Commander Realtors Pvt. Ltd. Respondent No. 3 owned 95% equity shares of Commander Realtors Pvt. Ltd. as is evident from ICAI report
R 15	Hardcore Realtors Pvt. Ltd.	• Common registered office as IPL • Owned & Controlled by Commander Realtors Pvt. Ltd. Respondent No. 3 owned 95% equity shares of Commander Realtors Pvt. Ltd. as is evidenced from ICAI report. • Mr. Nitin Gupta who was the General Manager, Finance of Respondent No. 5 / IPL, and was key managerial personnel along with Respondent No.3, was also a Director on the Board of Commander Realtors Pvt. Ltd. and



4. It is stated that Respondent Nos. 6 to 15 are Land Owning Companies belonging to the IREO Group, which were given a sum of Rs. 396 Crores by Respondent No. 5 for acquiring development rights in respect of a land parcel admeasuring 78 acres in Bhiwadi, Rajasthan. The said transaction (Bhiwadi Land Transaction), is nothing but a sham and bogus transaction for diverting money belonging to the homebuyers to Respondent Nos. 6 to 15. It is also stated that the said transaction has been written off by Respondent No. 5 in its books. The Petitioner alleges that this transaction constitutes offences under Sections 405, 406, 415, 417, 418, 421, 422, 423, 424 and 120B of the Indian Penal Code, 1860 (IPC), offences under the Foreign Exchange Management Act, 1999 (FEMA), Prevention of Money Laundering Act, 2002 (PMLA) and Section 212 of the Companies Act, 2013.

5. The Petitioner has alleged fraud on the part of Respondent Nos. 3-15

in the Bhiwadi Land Transaction. The Petitioner's allegations in brief are as follows:

a. It is stated that between October 2010 to March 2011, Respondent No. 5 has advanced a sum of Rs. 396 Crores to Respondent Nos 6 to 15 towards purported acquisition of development rights on land situated in Bhiwadi admeasuring approximately 78 acres, in the following manner :

Resp.	Name of LOC	Amount
R 6	High Star Builders Pvt. Ltd.	INR 40 Cr
R 7.	Panoply Propbuild Pvt. Ltd.	INR 40 Cr
R 8.	Regal Green Land Pvt. Ltd.	INR 40 Cr
R 9	Sang Promoters Pvt. Ltd.	INR 40 Cr
R 10	Auspicious Infrastructure P. Ltd.	INR 40 Cr
R 11	BTVS Buildwell Pvt. Ltd.	INR 36 Cr
R 12	Buzz Hotels Pvt. Ltd.	INR 40 Cr
R 13	Bulls Realtors Pvt. Ltd	INR 40 Cr
R 14	Adson Software Pvt. Ltd.	INR 40 Cr
R 15	Hardcore Realtors Pvt. Ltd	INR 40 Cr
	TOTAL	**INR 396 Cr**

b. It is stated that while Respondent No. 5 accounted for the said purchases in its financial statements, the same was not done by Respondent Nos. 6 to 15 in their financial statements for the financial year 2013-2014. It is stated that Respondent Nos. 6 to 15 disclosed the said amounts as a security deposit and adjusted the said amounts in their respective financial accounts against outstanding advances of Respondent No. 5. It is also stated that the said transactions were not disclosed as a related party transaction.

c. With regards to the allegation that Respondent Nos. 6 to 15 are related to Respondent No. 5 and is under the control of Respondent No. 3, it is stated that the Institute of Chartered Accountants of India (ICAI)/Respondent No. 17, in its prima facie opinion dated 23.08.2019 rejected the contention of the Respondents that these entities are private close entities and have no relation with each other or IREO Group.

d. The Petitioner has also relied upon an MOU dated 10.12.2011, which has allegedly been executed between Respondent No. 5 and Respondent Nos. 6 to 15, as per which the development work on the Bhiwadi Land must be completed within 36 months from date of commencement of construction but has not been done, even after 10 years have passed.

e. In the alleged Bhiwadi Land Transaction, valued at Rs. 396 Crores, it is stated that Rs. 385 Crores have been written off and Respondent Nos. 6-15 have failed to make proper disclosures. This was justified on the basis of valuation reports procured by Respondent No. 5 from one Recherche India Advisors LLP. It is stated that in 2013, the valuation report hailed the Bhiwadi Land development rights as an asset that would attract investors in an year, however in 2014, the value was impaired by over 189 crores, and further impaired by Rs. 234.21 Cr in 2015 and again impaired by Rs. 385.36 Cr in 2017. The Petitioner states that these valuation reports have been concocted to support the criminal conspiracy to misappropriate the monies invested.

f. The Petitioner has stated that the notes of financial statements of Respondent Nos. 6, 8, 9, 10, 11, 13 and 15 raise questions regarding the validity of the Bhiwadi Land Transaction. He further states that the ICAI vide separate orders dated 03.10.2019, 11.10.2019 and 16.10.2019 conducted an inquiry and has given a prima facie observation that the statutory auditors of the IREO Group of Companies are guilty of professional and other misconduct.

6. On 13.09.2019, the Ministry of Corporate Affairs, Union of India, passed an order dated 13.09.2019 under Section 212(1)(c) of the Companies Act, 2013 vide Order No. 3/404/2018-CL-II (NR), authorising the SFIO to investigate IPL and other IREO Group Companies. The SFIO submitted a Status Report dated 29.12.2020 before this Court in Writ Petition (Civil) No. 10337/2019.

7. The Petitioner, on becoming aware of the aforesaid facts made a written complaint to Respondent No. 1 on 26.10.2021, requesting for an investigation and prosecution of the accused persons. It is the grievance of the Petitioner that the Respondent authorities have failed to act on the complaint of the Petitioner and the Respondent authorities are in dereliction

of their duty to investigate crimes involving large scale fraud.

8. This Court issued notice in the Writ Petition on 23.12.2021. Status Reports have been filed by the Directorate of Enforcement (ED), Economic Offence Wing (EoW) and Serious Fraud Investigation Office (SFIO) from time to time.

9. The Petitioners have filed an additional affidavit dated 15.02.2023 wherein he has disclosed the details regarding a petition filed by him before the Hon'ble High Court of Punjab and Haryana registered as CRM-M-48933/2021 (O&M) wherein he has prayed for impounding/revoking/suspension of passport of Mr. Lalit Goyal/Respondent No. 3. He states that the siphoning of funds by the IREO Group of Companies has been confirmed by the provisional attachment order of the Enforcement Directorate dated 14.10.2022. The said attachment order also states that around 4705 customers had made a booking in different projects of the IREO Group of Companies and the said Group have siphoned off around Rs. 1376.25 crores of 640 homebuyers ouot of the total amount of Rs. 1777.48 crores received by the Group till 31.03.2017.

10. The Respondent No. 1/EOW of Delhi Police has filed a Status Report dated 07.02.2022 wherein it is stated that the Complaint No. C-1962/DCP/EOW dated 17.11.2021& Dy. No. 9833/DCP/EOW dated 12.11.2021 by the Petitioner were received by the EOW to South District vide Dy. No. 11586 dated 30.11.2021 and was assigned to Police Station Malviya Nagar vide Dy. No. 1461-CMTS dated 09.12.2021. The said complaint was received by PS Hauz Khas from PS Malviya Nagar on 06.01.2022. As per the Status Report filed, the process of preliminary enquiry is still going on and during the course of enquiry, the complainant

was contacted however no response was received from him. The site/property in question has also been inspected by Respondent No. 1 and it was found that interior work in the units at Ascott Project are still ongoing and construction work had not been completed. Respondent No. 1 states that the fate of the complaint filed by the Petitioner can only be ascertained after a proper and detailed enquiry into the matter and adequate time is required for the same.

11. A status report dated 25.01.2022 has been filed by Respondent No. 2/Enforcement Directorate. As per the Status Report, Mr. Lalit Goyal is already in judicial custody to face trial before Special Court (PMLA), Panchkula which has taken the cognizance of offence of money laundering as defined in Section 3 and punishable under Section 4 of PMLA, 2002. It further states that based on various FIRs registered before different Law Enforcement Agencies under the offences under Sections 120-B, 420, 467 & 471 of IPC, that these offences being scheduled offences under PMLA, the Respondent No. 2 has recorded a criminal case against M/s IREO Private Limited and others in order to investigate the offence of money laundering under Section 3 of PMLA. One of the FIRs, being FIR No. 0218/2018 dated 23.10.2018 is registered by the Economic Offences Wing, New Delhi.

12. It is stated by Respondent No. 2 that the investigation under PMLA is undergoing at the Chandigarh office of Respondent No. 2. During the investigation, Respondent No. 3 has continued to remain evasive and has deliberately withheld information and did not cooperate with the investigation and that the ED, having reasons to believe on the basis of material in its possession arrested Respondent No. 3 on 16.11.2021 at 7:40AM at its Gurugram Zonal Office. As per material in possession of

Respondent No. 2, the Respondent No. 3 is accused of offence of money launder defined under Section 3, and punishable under Section 4 of PMLA. The Respondent No. 3, at the time of filing of the Status Report, was under judicial custody. The ED also conducted a search against IREO Group of Companies and related persons on 22.11.2021 leading to seizure of incriminating documents which are being examined by the ED. As per the investigation carried out by the ED thus far, it prima facie appears that there are approximately 25-27 operating companies, including those mentioned in the writ petition and approximately 150 land owning companies involved, however the same is subject to examination of material on record. It is stated that the investigation by Respondent No. 2 into these transactions is still ongoing.

13. Material on record also indicates that persons similarly situated to the Petitioner herein have also filed petitions before this Court and the Apex Court seeking similar reliefs. Material on record shows that one Mr. Ramesh Sankha has filed W.P.(CRL.) 142/2018 before the Apex Court seeking a direction to the CBI to investigate into the transactions and the Apex Court disposed of the Writ Petition leaving it open to the Petitioner therein to take recourse to civil remedies. Similarly, one Col. Sanjeev Dhawan has filed W.P.(CRL.) 679/2020 before this Court seeking directions to the SFIO to attach the assets of the Ireo Group Companies and the personal properties of its Directors and the said Writ Petition was disposed of by this Court *vide* Order dated 11.03.2020 by observing as under:

> *"**12**. Having stated the above, it is apparent from the averments made in the present petition that there are serious allegations regarding siphoning of funds. In view of the above, SFIO is required to examine*

whether a forensic audit is required to be conducted into the affairs of the Ireo Group of Companies. If the concerned officer is of the view that such an audit is required to be conducted SFIO shall forthwith take steps, if not already done, for conducting a forensic audit of the companies. However, in the event the officer is of the view that no such forensic audit is necessary, he shall record his reasons for taking such a view. This Court does not consider it apposite to issue any directions in this regard as it is expected that SFIO shall conduct the enquiries/investigation and take all such necessary steps that it is required to take for the effective investigation in the matter.

***13**. Insofar as the allegation that petitions filed before the NCLT under the IBC are mala fide is concerned, the petitioners are at liberty to approach the concerned authority/tribunal for its grievances in accordance with law. It is not apposite for this Court to pass any orders with regard to proceedings that are pending before the NCLT.*

***14**. In so far as the apprehension that the directors and promoters of the Ireo Group of Companies would flee from the country and avoid legal process is concerned, SFIO is directed to examine the said apprehension and if necessary, take steps to protect the interest of all those concerned, in accordance with law.*

***15**. In so far as the petitioner's prayer that the properties of the Ireo Group of Companies be attached is concerned, this Court does not consider it apposite to pass any such orders for two reasons. First, the petitioner is unable to point out the legal framework within which such orders are required to be passed. And, second, that a Coordinate Bench of this Court has passed an interim order in W.P. (C) 10337/2018, restraining certain companies from creating interests*

> *in any third parties or parting with possession of their immovable properties. It is relevant to note that petitioners in the present petition are also the petitioners in that petition. Clearly, the petitioners cannot approach multiple forums seeking the same relief."*

14. Another Writ Petition, being W.P.(C) 10337/2019, was filed before this Court by Col. Sanjeev Dhawan and other homebuyers. This Court while disposing of the said Writ Petition *vide* Order dated 07.02.2020 has observed that the Respondent No.2 therein has directed the SFIO to nominate inspectors under Section 212(1) of the Companies Act, 2013 to investigate into the affairs of Ireo Group of Companies.

15. The latest Status Report filed by the SFIO, though has been filed in a sealed cover, is being reproduced in the Order because this Court does not feel that the information revealed in the Status Report would hamper investigation. The same reads as under:

> "***Status Report to be submitted in the Hon'ble High Court of Delhi in the matter of Ireo Pvt Ltd. & 19 other Group Companies***
>
> *1. Ministry of Corporate Affairs directed Serious Fraud Investigation Office to investigate the affairs of IREO Pvt Limited & 19 other IREO group companies.*
>
> *2. The above mentioned 20 Companies are part of Ireo Group of Companies and were incorporated for carrying-out the construction and development of Real Estate activities in India by raising funds from abroad primarily Mauritius and Singapore, coinciding with the fact that in the year 2005 Foreign Direct Investment in development and construction Sector was permitted by Government of India.*

3. Ireo Group of Companies have outstanding advances of Rs.2,700 crore to home buyers collected for booking of flats/plots/apartments and outstanding loans of Rs.2,800 crore from Banks & Financial Institutions (BFIs).

4. Ireo Group of Companies have diverted funds to the tune of around Rs.1,000 crore the advances collected from home buyers and funds borrowed from banks and financial institutions to foreign companies based in Mauritius in the name of buy back of shares and to other companies. The funds to the tune of around Rs.200 crore was misutilized and siphoned off through abnormally high purchase value of land development rights.

5. Ireo Group of Companies have not delivered the projects to home buyers and defaulted in repayment of loans and borrowings to the banks and financial institutions.

6. nvestigation revealed that many of the Ireo Group Companies have been involved in buying back shares from their holding companies located in Mauritius at unreasonable premiums. For instance, Ireo Group Companies buyback the shares from Company A at a premium of 12 times. It has also been uncovered that homebuyers' funds as well a well as Term Loans taken from various Financial Institutions have been diverte towards the buy back. The diversion in these instances have been layered in a way avoid detection. It has been uncovered that in some buy back instances, the buy ba span through multiple financial years. These buy backs are a malicious ploy to di public funds outside India i.e Mauritius. It has also been noted in most of the cases buy backs have been executed by the Ireo Group companies at a time when they were loss-making companies.

7. It has also been noted during the investigation that the Ireo Group companies have been deploying collaboration agreement as a tool to divert homebuyers' funds as well as loans taken from financial institutions. The collaboration agreements are entered for co- development, but the development has stayed incomplete in most of the cases, leading to the invested funds in these projects being stuck.

8. It has also been noted during the investigation that Ireo Group companies have been diverting term loans taken from one financial institution to repay the loan from another Financial Institution thus effecting engaging in evergreening of loans.

9. Investigation revealed that Ireo Private Limited had paid Rs. 396 Cr. to its 10 Land Owning Companies (LOCs) in F.Y. 2010-11 for purchase of development rights of land located at Bhiwadi. IPL did not conduct any development activity on the land for which rights were acquired. Later on, IPL started writing off the development rights from F.Y. 2012-13 to 2016-17.

10. On perusal of the Valuation Report of Bhiwadi Land & Auditor king, it has been identified that a total of Rs 385.36 Cr has been written off by IPL in a phased manner starting from F.Y 2012-13 to 2016-17 citing "non-profitable venture with negative returns on its investment". Details of the written-off amount is provided in the table below:

Particulars	*F.Y.*	*New Amount Written off*	*Cumulative Amount*
Development cost written off - Bhiwadi	*2012-13*	*(41,30,00,000)*	*(41,30,00,000)*
	2013-14	*(88,91,50,000)*	*(1,30,21,50,000)*

land (Impairment In valuation)	*2014-15*	*(1,04,00,00,000)*	*(2,34,21,50,000)*
	2015-16	*(1,25,78,50,000)*	*(3,60,00,00,000)*
	2016-17	*(25,36,03,360)*	*(3,85,36,03,360)*
Total amount left out of Rs.396 Cr after the write off			*10,63,96,640*

11. A summary of the transactions is as under: -

- *IPL transferred a huge sum of Rs. 396 Cr. to its 10 LOCS as advances for purchase of development rights of land located at Bhiwadi.*
- *The expense booking under cost of development rights.*
- *IPL wrote-off the advanced sum to its 10 LOCs in a phased manner, making it evident that these funds have been siphoned off.*

12. A total of 65 Notices and 21 Summons have been issued in the case for all the instances covered till date. It is further stated that the investigation spans over 200 companies, which involves around 225 directors which are having around 400 bank accounts which in turn having approximately 8 signatories in each account. The data being analyzed is voluminous and time consuming. However, progress in the case is being made on a daily basis. Some instances of violation of company's act have been identified and are under investigation.

13. Investigation in the case is at advanced stage.

The findings of the investigation could no be revealed in public thus submitted to the Hon'ble Court in a sealed cover.”

16. As per the Status Report the list of 20 companies which are a part of the Ireo Group of Companies is as under:

S. No	Company	CIN
1.	Ireo Pvt Ltd	U70101DL2004PTC125163
2.	Limitless Education Foundation	U80900HR2010NPL040040
3.	Ireo Hospitality Management Company (Gurgaon) Pvt Ltd	U93000DL2013PTC253935
4.	Gurgaon Recreational Club Pvt Ltd	U55101DL2013PTC255018
5.	Knowledge Corporation India Pvt Ltd	U55101DL2013PTC255018
6.	Ireo Victory Valley Pvt Ltd	U45204DL2010PTC201359
7.	Puma Realtors Pvt Ltd	U70101DL2005PTC141373
8.	Ireo Hospitality Company Pvt Ltd	U55101DL2009PTC197333
9.	Ireo Grace Realtech Pvt Ltd	U70200DL2010PTC202572
10.	Accent Builders Pvt Ltd	U45208DL2007PTC158602
11.	Ireo Waterfront Pvt Ltd	U70100DL2006FTC146233
12.	Ireo Residence Company Pvt Ltd	U74900DL2010PTC204169
13.	Ireo Fiveriver Pvt Ltd	U45200DL2007PTC160318
14.	Sunflower Real Tech Pvt Ltd	U70102DL2006PTC156901
15.	Faith Buildtech Pvt Ltd	U70101DL2010PTC207871
16.	Pravesh Promoters Pvt Ltd	U70100DL2006PTC146229
17.	Sunsine Realbuild Pvt Ltd	U70102DL2012PTC230650
18.	Elite Township Pvt Ltd	U45200DL2006PTC157126
19.	Proud Buildwell Pvt Ltd	U70100DL2013PTC259004
20.	Wisdom Infrahome Pvt Ltd	U70102DL2013PTC258945

17. In the Status Report it is stated that these 20 Companies are part of the IREO Group of Companies which were incorporated for carrying out construction and development of real estate activities in India by investing funds raised abroad primarily Mauritius and Singapore. Apart from investment as share capital and debenture from foreign funds, the management of IREO Group of Companies has borrowed funds from Banks & Financial Institutions for completion of housing/commercial projects, valued at over Rs. 4000 Crores and it has also taken advances from customers who have purchased apartments or plots from IREO Group of Companies. It is stated that the Company has defaulted in repayment of loans and borrowings to banks, financial institutions as well as payment of dues like license, land development charges etc. to Government Authorities. Some of these companies have also become NPAs and several customers who have paid advances to customers have approached various judicial forums for redressal of their grievances. It is stated that necessary notices/summons were issued to CUIs and its Directors, asking them to furnish books of accounts, secretarial records, bank account details etc. and sought audit documentations from statutory auditors. These documents have been received and are being examined. The investigation requires examination of a large number of persons and the data being analysed is voluminous and so the investigation is currently under process and the allegations raised by the petitioner are being investigated, including the Bhiwadi Land Transaction

18. The other Status Reports filed by the EoW and ED also indicate that the investigation is under progress.

19. Heard the Counsel for the parties and perused the material on record.

20. It is trite law that the Courts should monitor investigation only in rarest or rare cases and only when it is absolutely necessary. In Dukhishyam Benupani v. Arun Kumar Bajoria, **(1998) 1 SCC 52**, the Apex Court has held as under:

> *"7. It seems rather unusual that when the aggrieved party approached the High Court challenging the order passed by a subordinate court the High Court made the position worse for the aggrieved party.* ***The officials of the Directorate are now injuncted by the Division Bench from arresting the respondent and the time and places for carrying out the interrogations were also fixed by the Division Bench. Such kind of supervision on the enquiry or investigation under a statute is uncalled for. We have no doubt that such type of interference would impede the even course of enquiry or investigation into the serious allegations now pending. For what purpose the Division Bench made such interference with the functions of the statutory authorities, which they are bound to exercise under law, is not discernible from the order under challenge. It is not the function of the court to monitor investigation processes so long as such investigation does not transgress any provision of law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences****. A blanket order fully insulating a person from arrest would make his interrogation a mere ritual, (vide State rep. by the CBI v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651])."* (emphasis supplied)

21. In P. Chidambaram v. Directorate of Enforcement, **(2019) 9 SCC 24,** the Apex Court has held as under:

> *"**61**. The investigation of a cognizable offence and the*

various stages thereon including the interrogation of the accused is exclusively reserved for the investigating agency whose powers are unfettered so long as the investigating officer exercises his investigating powers well within the provisions of the law and the legal bounds. In exercise of its inherent power under Section 482 CrPC, the Court can interfere and issue appropriate direction only when the Court is convinced that the power of the investigating officer is exercised mala fide or where there is abuse of power and non-compliance of the provisions of the Code of Criminal Procedure. However, this power of invoking inherent jurisdiction to issue direction and interfering with the investigation is exercised only in rare cases where there is abuse of process or non-compliance of the provisions of the Criminal Procedure Code.

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***64**. Investigation into crimes is the prerogative of the police and excepting in rare cases, the judiciary should keep out all the areas of investigation. In State of Bihar v. P.P. Sharma [State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192], it was held that : (SCC p. 258, para 47)*

> *"47. ... The investigating officer is an arm of the law and plays a pivotal role in the dispensation of criminal justice and maintenance of law and order. ... Enough power is therefore given to the police officer in the area of investigating process and granting them the court latitude to exercise its discretionary power to make a successful investigation…."*

***65**. In Dukhishyam Benupani v. Arun Kumar Bajoria [Dukhishyam Benupani v. Arun Kumar Bajoria, (1998)* *1 SCC 52 : 1998 SCC (Cri) 261], this Court held that : (SCC p. 55, para 7)*

> *"7. ... It is not the function of the court to monitor investigation processes so long as such investigation does not transgress any provision of law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences. A blanket order fully insulating a person from arrest would make his interrogation a mere ritual…."*

66**. As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication.* ***It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must be left to the discretion of the investigating agency to decide the course of investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused

67. It is one thing to say that if the power of investigation has been exercised by an investigating officer mala fide or non-compliance of the provisions of the Criminal Procedure Code in the conduct of the investigation, it is open to the court to quash the proceedings where there is a clear case of abuse of power. It is a different matter that the High Court in exercise of its inherent power under Section 482 CrPC,

> *can always issue appropriate direction at the instance of an aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide and not in accordance with the provisions of the Criminal Procedure Code. However, as pointed out earlier that power is to be exercised in rare cases where there is a clear abuse of power and non-compliance of the provisions falling under Chapter XII of the Code of Criminal Procedure requiring the interference of the High Court. In the initial stages of investigation where the Court is considering the question of grant of regular bail or pre-arrest bail, it is not for the Court to enter into the demarcated function of the investigation and collection of evidence/materials for establishing the offence and interrogation of the accused and the witnesses."* (emphasis supplied)

22. The said judgment has been followed by the Apex Court in <u>Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others,</u> **2021 SCC OnLine SC 315.**

23. This Court has carefully gone through the status report filed in the matter and the facts of the case remains that SFIO is investigating into the matter. All minute details have been filed in the status report.

24. The facts further reveal that the status report of Directorate of Enforcement also reveals that the cases were registered under the PMLA and the investigation under the PMLA is going on. Therefore, this Court is of the considered opinion that Investigating Agencies are proceeding ahead with the matter to bring it to the logical conclusion.

25. Another important aspect is that the home buyers are certainly at liberty to approach NCLT and RERA Authorities, and, therefore, this Court

does not find any reason to grant relief as prayed by the Petitioner in the peculiar facts and circumstances of the case as Investigating Agencies are already investigating the matter.

26. This Court, in the interest of justice, is of the opinion that the Investigating Agencies deserve a command to conclude the investigation and bring it to a logical conclusion at an early date keeping in view the totality of the circumstances of the case and especially the fact that the investigation is already underway by different agencies, this Court is not inclined to pass any further order in the matter.

27. With these observations, the Writ Petition is disposed of, along with pending application(s), if any. Liberty is granted to the Petitioner to approach this Court if need arises in future.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

MARCH 28, 2023
Rahul