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

\+ W.P.(C) 12389/2023 & CM APPL. 48881/2023

AMIT GUPTA .....Petitioner

Through: Ms Ayushi Arya, Mr. Nitin K Gupta, Advs.

versus

UNION BANK OF INDIA & ORS. .....Respondents

Through: Mr. OP Gaggar and Mr. Sachindra Karn, Advocates for R1

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

<u>O R D E R</u>

% **29.01.2026**

1. This is a writ petition filed under Article 226/227 of the Constitution of India seeking the following prayers:-

> *"a) Setting aside/Quashing the Impugned orders dt. 28.02.2023 (not served to the Petitioner) and 22.05.2023 passed by the Identification Committee and Review Committee of the Respondent No. 1 Bank in violation ·of Clause 3(b) of the RBI Master circular 2015 and principles of natural justice and fundamental rights guaranteed to the Petitioner under Articles 14 and 21 of the Constitution of India; and*
> *b) direct Respondents to adhere to the RBI Master circular 2015 and principles of natural justice while deciding the declaration of willful defaulter against the Petitioner in future;"*

2. The case of the petitioner is that a term loan of Rs. 45 crores was availed

by the respondent No. 2 Company i.e., Sunworld Residency Pvt. Ltd., from respondent No. 1 Bank i.e., Union Bank of India and the loan account was classified as Non-Performing Asset ("***NPA***") on 30.09.2018. The petitioner became one of the guarantor on the date availing the loan.

3. A Show Cause Notice dated 14.06.2022 was issued by respondent No. 1 Bank to the respondent No. 2 Company as well as the petitioner and other guarantors.
4. The respondent No. 1 Bank issued the impugned order dated 28.02.2023 on 01.03.2023, whereby the petitioner was declared as wilful defaulter by order of the identification committee.
5. Thereafter, the respondent No. 1 Bank *vide* letter dated 13.06.2023 sent a copy of the impugned order dated 22.05.2023 passed by the Review Committee of willful defaulter.
6. Hence, the present petition.
7. Ms. Arya, learned counsel for the petitioner, has drawn my attention to 3 letters, which although are not filed in the present petition, are filed in connected matter i.e., W.P. (C) 10047/2023.
8. First is the letter dated 10.10.2024 issued by respondent No. 1 bank, which is extracted below:-

यूनियन बैंक ऑफ इंडिया
भारत सरकार का उपक्रम

Union Bank of India
A Government of India Undertaking

दबावग्रस्त आस्ति प्रबंधन शाखा, दिल्ली
STRESSED ASSET MANAGEMENT BRANCH, DELHI

SAM/DEL/OR/1063/2024-25 Date:-10/10/2024

To,

M/s Sunworld Residency Prv. Ltd.
GH-01/C, Sector- 168 Noida,
PIN 201305, UP

Sir,

Without Prejudice

Re: Your request for NOC for the appointment of Co-Developer i.e M/s Nimbus Projects Ltd for project development of balance area

We refer to mail dated 26/09/2024, mentioning various facts and requesting us to issue NOC for the appointment of Nimbus Projects Limited as Co-developer for the project development of the balance area after payment of full and final amount of remaining OTS amount Rs 20.00 Cr along with delayed intt. We would like to inform that we have received the remaining amount with delay period intt on 09.10.2024 from Nimbus Projects ltd.

As per your request and development in the account, we provide our NOC for appointment of "M/s Nimbus Projects Ltd" as Co-developer for the project "Sunworld Arista" provided that the payment terms and conditions of our OTS sanction dated, 20/09/2023 is complied with. Our NOC for appointment Co-Developer for the above said project is subject to similar NOC given by other lender of consortium member i,e BOB.

Kindly note that this letter is without prejudice to Banks right against the Borrower & Guarantors and well as the Bank's charge over the secured assets mortgaged/ hypothecated in Bank's favor. Final settlement certificate and release will be done after ratification from competent authority for condonation of delay.

Yours faithfully

Deputy General Manager

9. Second, is the letter dated 18.11.2024 issued by the Bank of Baroda, which is extracted below:-

बैंक ऑफ़ बड़ौदा
Bank of Baroda

ANNEXURE A-3

BR/ZOSARB/ND/2024-25/137

Dated 18.11.2024

The Deputy General Manager
Union Bank of India
SAM Branch
6th Floor, Konnectus Tower
Ajmeri Gate
New Delhi-110001

Dear Sir

Re: Request of Co. M/s Sunworld Residency Pvt Ltd for release of primary security i.e. project in the name of "Sunworld Arista"

We invite your attention to the joint's lenders' meeting held on 13.11.2024, wherein we have briefed/updated the status of court cases and compliance of terms & conditions of the OTS sanction letter as advised to the borrower company.

In due deliberation, it is noted that certain terms & conditions of the OTS sanction letter of the respective consortium lenders banks are yet to be complied, however, the borrower has deposited the full amount to the respective Banks. Therefore, both the banks agreed to release the primary security, which are mortgaged as security in the captioned account.

Accordingly, we convey our consent for release of primary security, more particularly described hereunder:

> 2nd Pari-Passu charge with Union Bank of India on project lease hold land measuring 40221.26 sq. meters situated at GH-1C, Sector 168, Noida and construction thereon in the name of the company*

*the above security includes the certain flats which are already released against the deposit of sale price.

Kindly note that our Bank is agreeable to release its charge over the above assets only. However, release of the other assets including the personal and corporate guarantee of the guarantor/corporate guarantors shall be subject to compliance of the all terms & conditions of sanction/s of the consortium lenders in toto.

Yours faithfully

(Sudhakar Bhai Tripathi)
AGM & Branch Head

10.Third, is the letter dated 20.11.2024 issued by the respondent No. 1 Bank regarding release of primary security, and the same is extracted below:-

यूनियन बैंक ऑफ इंडिया **Union Bank** of India

A Government of India Undertaking

Azadi Ka Amrit Mahotsav

Stressed Asset Management Branch
603 B, Konnectus Tower, Ajmeri Gate, New Delhi - 110001
E-mail: ubin0906069@unionbankofindia.bank

Ref: DEL: SAMB: OR: 1231:2024-25

Date: 20.11.2024

To,

M/S SUNWORLD RESIDENCY PVT LTD
GH-01/C, Sector- 168
Noida, PIN 201305, UP

RELEASE OF PRIMARY SECURITY

The account in the name of M/S SUNWORLD RESIDENCY PVT LTD is a Non-Performing Asset (NPS) of the Bank. M/S Sunworld Residency Pvt Ltd had offered a One Time Compromise Settlement in the above account.

That the OTS was approved by the competent authority in the account of and the Bank has received a sum of Rs.28,50,00,000/- (Rupees Twenty Crore fifty Lakhs Only) with legal expenses of Rs.5,00,000/- over and above the OTS amount.

We hereby confirm that the entire settlement amount of Rs. 28,50,00,000/- (Rupees Twenty-Eight Crore Fifty Lakhs only) along with interest/delayed period interest of Rs.2,17,03,101.50 (Rupees Two Crore Seventeen Lakhs Three Thousand One Hundred One and paisa Fifty only) and legal expenses of Rs. 5,00,000/- over and above the OTS amount has been received by our Bank. On receipt of consent from the consortium member Bank of Baroda, we hereby released the primary security more particularly described hereunder:

2nd Pari-Passu charge on project lease hold land measuring 40221.26 Sq meters situated at GH-1C, Sector 168, Noida (U.P.) and construction thereon in the name of company. The above security includes the certain flats which are already released against the deposit of sale price.

Note: Release of other assets including the personal and corporate guarantees shall be subject to compliance of all the terms & conditions of sanction/s of the consortium lenders in toto.

This certificate has issued at the specific request of the borrower M/s Sunworld Residency Pvt Ltd. without any prejudice to the rights of the Banks.

Yours Sincerely,

11. Thereafter and most importantly, she draws my attention to an email dated 21.11.2024 (which although is not filed in the present petition, is filed in connected matter i.e., W.P. (C) 10047/2023.) issued by respondent No. 1 Bank to Reserve Bank of India ("***RBI***"), which reads as under:-

NO DUES Certificate and update of account status on RBI/CIBIL website

Bh - Sam Branch-Delhi [Union Bank Of India] <ubin0906069@unionbankofindia.bank> Thu, Nov 21, 2024 at 6:51 PM

To: CA Abhishek Jhorar <ca.abhishek@sunworld.in>, "Bh - Sam Branch-Delhi [Union Bank Of India]" <ubin0906069@unionbankofindia.bank>
Cc: Dinesh Goyal <dineshgoyal@sunworld.in>, "Sahoo,Prasanta Kumar" <prasant.sahoo@unionbankofindia.bank>

Dear Sir,

With reference to trail mail and further to discussion happened in our office , we would like to intimate that the No dues Certificate cum OTS settlement letter issued to Company on 20.11.2024 and sent vide email. Further to your request for removal of Company name from RBI defaulter list and removal of Wilful defaulter Tag , necessary recommendation have been sent to competent authority .

Branch will communicate the same to company in due course as the process will take 2-3 weeks for sanction .

Thanking you.

Union Bank Of India

Stressed Asset Management Branch

Unit No. 603B, Konnectus Tower,

Bhav Bhuti Marg, Oppo. New Delhi Railway Station,

Ajmeri Gate Side, New Delhi - 01

12. A perusal of the aforesaid documents, shows that a No Due Certificate has been issued and the OTS settlement has been complied with.

13. The respondent No. 1 Bank has already requested the RBI to remove the name of the respondent No. 2 Company from RBI defaulter list.

14. In this view of the matter, I am satisfied that the fountainhead for declaring the petitioner a wilful defaulter i.e., the declaration of the account of respondent No.2 Company being an NPA, no longer survives. Additionally, pursuant to the email of respondent No. 1 Bank, the RBI has removed the name of the petitioner and respondent No. 2 Company from the list of wilful defaulter.

15. For the said reasons, the petition is allowed and the impugned orders dated 28.02.2023 and 22.05.2023 are hereby set aside.

16. The petition is disposed of in aforesaid term, along with pending applications if any.

JASMEET SINGH, J

JANUARY 29, 2026 / (MS)