

ITEM NO.301

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No(s).940/2017

BIKRAM CHATTERJI &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With appln.(s) for directions, permission to file appln. for direction, permission to assess the portal facility, vacating stay and modification/clarification)

WITH

W.P.(C) No.947/2017 (X)

(With appln.(s) for directions &amp; modification/clarification)

W.P.(C) No.942/2017 (PIL-W)

(With appln.(s) for appropriate orders/directions, clarification, intervention/impleadment and appln. on behalf of R.13 seeking permission to pursue company appln.No.17 (P.B.) of 2018)

W.P.(C) No.971/2017 (X)

(With appln.(s) for directions)

W.P.(C)No.1041/2017 (X)

(With appln.(s) for directions and for permission to file addl. documents)

W.P.(C) No.1018/2017 (X)

(With appln.(s) for directions and impleadment/intervention)

W.P.(C) No.1116/2017 (X)

W.P.(C) No.1144/2017 (X)

(With appln.(s) for directions)

W.P.(C) No.1156/2017 (X)

(With appln.(s) for clarification of order dated 12.2.2018)

W.P.(C) No.1206/2017 (X)

(With appln.(s) for directions)

W.P.(C) No.8/2018 (X)

W.P.(C) No.1242/2017 (X)

W.P.(C) No.58/2018 (X)

W.P.(C) No.21/2018 (X)

W.P.(C) No.52/2018 (X)  
(With appln.(s) for directions)

W.P.(C) No.56/2018 (X)

W.P.(C) No.91/2018 (X)  
(With appln.(s) for impleadment)

W.P.(C) No.57/2018 (X)  
(With appln.(s) for directions)

W.P.(C) No.74/2018 (X)

W.P.(C) No.134/2018 (X)  
(With appln.(s) for permission to file addl. documents)

W.P.(C) No.131/2018 (X)  
(With appln.(s) for stay/directions)

W.P.(C) No.160/2018 (X)  
(With appln.(s) for permission to file subsequent events on record)

W.P.(C) No.164/2018 (X)

W.P.(C) No.182/2018 (X)  
(With appln.(s) for directions)

W.P.(C) No.199/2018 (X)

W.P.(C) No.226/2018 (X)

W.P.(C) No.245/2018 (X)

W.P.(C) No.281/2018 (X)  
(With appln.(s) for stay)

W.P.(C) No.306/2018 (X)

W.P.(C) No.246/2018 (X)

W.P.(C) No.298/2018 (X)

W.P.(C) No.267/2018 (X)

W.P.(C) No.288/2018 (X)  
(With appln.(s) for impleadment and directions)

W.P.(C) No.353/2018 (X)  
(With appln.(s) for stay)

W.P.(C) No.378/2018 (X)

W.P.(C)No.460/2018

W.P.(C) No.742/2018 (X)

W.P.(C) No.829/2018 (X)

W.P.(C) No.866/2018 (X)

Date : 02-08-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

Mr. Pawanshree Agrawal,Adv. (A.C.)

For Petitioner(s)/Applicant(s)

UOI

Mr. Vikramjit Banerjee,ASG  
Ms. V. Mohana,Sr.Adv.  
Mr. S.S. Shamsery,Adv.  
Mr. Mukul Singh,Adv.  
Mr. Ayush Anand,Adv.  
Mr. Siddharth Sinha,Adv.  
Mr. Anshul Gupta,Adv.  
Mr. Shubhendu Anand,Adv.  
Mrs. Anil Katiyar,Adv.  
Mr. Arvind Kumar Sharma,AOR  
Mr. B.V. Balaram Das,AOR

Mr. V. Giri,Sr.Adv.  
Mr. Kunal Mimani,Adv.  
Mr. Dheeraj Nair,AOR

Mr. Ajit Kumar Sinha,Sr.Adv.  
Mr. Ashwarya Sinha, AOR  
Ms. Mohini Priya,Adv.  
Mr. Srijan Sinha,Adv.

Mr. V.N. Sinha,Sr.Adv.  
Mr. Sandeep Jha,Adv.  
Mr. Ram Ekbal Roy,Adv.  
Mr. Binay Kumar Das,AOR

Mr. Rakesh Khanna,Sr.Adv.  
Ms. Aarohi Molani,Adv.  
Mr. Kumar Mihir,Adv.

Mr. Sachin Datta,Sr.Adv.  
Dr. Farrukh Khan,Adv.  
Ms. Rijuta Mohanty,Adv.

Ms. Akanksha Singh, Adv.  
for Mr. R.P. Goyal, AOR

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Alok K. Agarwal, Adv.  
Mr. Gaurav Goel, AOR  
Mr. Apoorv Rastogi, Adv.  
Mr. Harshal, Adv.

Mr. Sanjiv Sen, Sr. Adv.  
Mr. Raj Kamal, AOR  
Mr. Maheen Pradhan, Adv.

Mr. M.L. Lahoty, Adv.  
Mr. M.S. Vishnu Sankar, Adv.  
Ms. Athira G. Nair, Adv.  
Ms. Usha Nandini V., AOR

Mr. Jayant Mehta, Adv.  
Mr. Sukant Vikram, AOR  
Mr. Anshumaan Sahni, Adv.

Ms. Indrani Mukherjee, Adv.  
Ms. Tatini Basu, AOR

Mr. Nitin Jain, Adv.  
Mr. Aneesh Mittal, AOR

Mr. Krishnam Mishra, Adv.  
Mr. Param K. Mishra, Adv.  
Mr. Shanshank Singh, Adv.  
Ms. Anisha Upadhyay, AOR

Ms. Prerna Mehta, AOR  
Mr. Rohit Singh, Adv.

Mr. Vivek Narayan Sharma, AOR  
Mr. Rajeev Kumar Jha, Adv.  
Mr. Pragyan Utsav Mishra, Adv.  
Mr. Maneesh Pathak, Adv.  
Dr. Shesh Mani Pandey, Adv.

Mr. Avijit Mani Tripathi, Adv.  
Mr. Kumar Abhishek, Adv.

Mr. Prithvi Pal, AOR  
Mr. Naresh Kumar Nagar, Adv.  
Mr. Neelendra Pratap Singh, Adv.  
Mr. Kumar Abhishek, Adv.

Mr. Abdul Azeem Kalebudde, AOR  
Ms. Taherabi Kalebudde, Adv.

Mr. M.L. Lahoty, Adv.  
Mr. Paban K. Sharma, Adv.  
Mr. Anchit Sripat, Adv.  
Mr. Himanshu Shekhar, AOR

Mr. Manish Kr. Saran, AOR  
Mr. S.P. Sharan, Adv.

Mr. S.S. Ray, Adv.  
Mr. Vaibhav Gulia, Adv.  
Ms. Praveena Gautam, AOR

Mr. Abhinav Jain, Adv.  
Mr. Prakash Chandra Sharma, Adv.  
for Mr. Himanshu Shekhar, AOR

Mr. E.R. Sumathy, AOR  
Ms. Savita Aggarwal, Adv.

Mr. Madhurendra Kumar, AOR

Mr. Vijay Kumar, AOR  
Mr. Thomas Oommen, Adv.

Mr. Girish Chand Tyagi, Adv.  
Mr. Brijesh Tyagi, Adv.  
Mr. Kailash Prasad Pandey, AOR

Mr. Aditya Sharma, Adv.  
for Mr. Sanjay Kumar Dubey, AOR

Mr. Talha Rahman, AOR  
Mr. Pawan Bhushan, Adv.

Mr. Nitin Bajpai, Adv.  
Mr. Udit Grover, Adv.  
Mr. R.K. Banju, AOR

Mr. Suman Tripathy, AOR

Mr. Abhimanyu Bhandari, Adv.  
Mr. Rajiv Kumar Virmani, Adv.  
Mr. Navin Kumar, AOR

Ms. Shobha, AOR  
Mr. Sourav Roy, Adv.

Mr. Devendra Nath Tripathi, Adv.  
Mr. Anshuman Dwivedi, Adv.  
Mr. Rohit Pandey, Adv.  
Ms. Anushruti Tripathi, Adv.

Mr. Prabhu Singh, Adv.  
for Mr. Balraj Diwan, AOR

Mr. Sinha Shrey, Adv.  
Mr. Swastik Verma, Adv.  
Mr. Sumit Sinha, AOR

Mr. R. Sathish, AOR  
Mr. Mohan Das K.K., Adv.  
Mr. Rajesh Kumar, Adv.  
Mrs. S. Geetha, Adv.  
Mrs. Smitha Rani, Adv.

Mr. Virender Goswami, Adv.  
Mr. Gautam Narayan, AOR  
Ms. Soni Singh, Adv.  
Mr. Shamik Saha, Adv.

Mr. Shadan Farasat, AOR  
Ms. Sayaree Basu Mallik, AOR  
Mr. Shishir Pinaki, AOR  
Mr. Shovan Mishra, AOR  
Mr. Gopal Jha, AOR  
Mr. Aniruddha P. Mayee, AOR  
Mr. A.P. Mohanty, AOR  
Mr. Ashok Kumar Singh, AOR  
Mr. Pallav Mongia, AOR  
Mr. Prakash Ranjan Nayak, AOR  
Mr. Sibho Sankar Mishra, AOR

**For Respondent(s)**

Mr. Maninder Singh, ASG  
Mr. Bishwajit Dubey, Adv.  
Ms. Srideepa Bhattacharyya, Adv.  
Mr. Aditya Marwah, Adv.  
Mr. Manpreet Lamba, Adv.  
Mr. Prabhas Bajaj, Adv.  
Ms. Kanika S., Adv.  
for M/s. Cyril Amarchand Mangaldas, AOR

Mr. Rupinder Singh Suri, Sr. Adv.  
Dr. Ashwani Bhardwaj, AOR  
Mr. Amit Goel, Adv.  
Mr. Luqman Hassan, Adv.

Mr. Amit Sibal, Sr. Adv.  
Mr. S.S. Ray, Adv.  
Mr. Manmeet Singh, Adv.  
Mr. Anugrah Robin Frey, Adv.  
Mr. Prithvi Sidhu, Adv.  
Mr. Anshul Tyagi, AOR

Ms. Rakhi Ray, Adv.

Mr. Gaurav Bhatia, AOR

Mr. Balaji Srinivasan, AOR

Mr. Alok Kumar, Adv.

Mr. Amit Agnihotri, Adv.

Ms. Somya Yadava, Adv.

Mr. Siddhant Trivedi, Adv.

Ms. Jagirti Mahajan, Adv.

Mr. Abhishek Raj, Adv.

Mr. Paras Choudhary, Adv.

for Mr. Vishal Gupta, AOR

Mr. Vishnu Sharma, AOR

Mr. Sourav Roy, Adv.

Ms. Anupama Sharma, Adv.

Ms. Sonali Negi

Mr. Mohit Rai, Adv.

Mr. Somiran Sharma, AOR

Ms. Priyanka Das, Adv.

Mr. Sahil Sethi, Adv.

Mr. Shivam Sharma, Adv.

Ms. Astha Sharma, AOR

Mr. Shashwat Bajpai, Adv.

Mr. Sharad Agrawal, Adv.

Mr. Rohit Amit Sthalekar, AOR

Mr. Manoj, Adv.

Mr. T. Mahipal, AOR

Mr. Rajesh Kumar Gupta, AOR

Mr. Pallavi Pratap, AOR

Mr. Sumit Saurav, Adv.

Mr. Rahul Arya, Adv.

Mr. Ranjay, Adv.

Mr. Parth Tandon, Adv.

Mr. PBD Srinivasan, Adv.

for Mr. Aman Gupta, AOR

Mr. Abhimanyu Bhandari, Adv.

Ms. Roohina Dua, Adv.

Mr. Kunwar Aditya Singh, Adv.

Mr. Ejaz Maqbool, AOR

Mr. Badri Prasad Singh, AOR  
Ms. Shaila Arora, Adv.

Mr. Ravindra Kumar, AOR  
Mr. Rabin Majumder, AOR  
Mr. Akhilesh Kumar Pandey, AOR  
Mr. Vishnu Sharma, AOR  
Mr. Dharmendra Kumar Sinha, AOR

UPON hearing the counsel the Court made the following  
O R D E R

1. Pursuant to the order passed yesterday, i.e., on 1.8.2018, Mr. Durga Shankar Mishra, Secretary, Ministry of Housing and Urban Affairs, has stated that a Committee has been constituted by the Government of Uttar Pradesh under his chairmanship to look into the problems of three lakhs home buyers of NOIDA, Greater NOIDA and Yamuna Expressway. The Committee has been constituted so as to take a policy decision so as to solve the problems of the home buyers. On 25.6.2018, the first meeting of the then Chief Executive Officers (CEOs) of the NOIDA and Greater NOIDA, real estate representatives, etc. was held and thereafter, second meeting was held on 10.7.2018, which was attended by 32 persons, *inter alia* including certain representatives of the Flat Owners Welfare Association, Joint General Manager, ICICI Bank, AGM of the Bank of Baroda, General Manager of HDFC Bank and Chairman of CREDAI had also attended the meeting. Thereafter, no meeting of the Committee has been held. However, a discussion with the Chairman of representatives of the four builders, i.e., Amrapali Group, Jaypee Infratech

Ltd., Three C Group and Unitech Limited was held on 18.7.2018, along with details of the housing projects promoted by their companies and with the specific plans as to how earliest they could deliver the flats/houses to the home buyers who have made payments towards their companies. It was also stated by the Secretary that he was not aware that this Court has passed an order on 17.5.2018 appointing promoters etc. and time frame within which the projects have to be completed. He has also stated that he never intended to violate the orders passed by this Court. The statement made by Mr. Mishra is placed on record.

2. It was also submitted that NBCC issued advertisement on 30.7.2018 and the Chairman of the NBCC has informed us that the said advertisement was not issued specifically for Amrapali Group of companies. Similar advertisements have been issued earlier too. However, it was stated by the Chairman that they are ready to undertake the Amrapali Group projects and to complete them, after making the detailed study of the stage and investment which is required to be made in the projects that are incomplete.

3. Pursuant to the directions issued by the Court, Amrapali Group has placed on record the account numbers and other details of 38 of Amrapali Group of companies only, but not that of the personal accounts and the accounts in names of its Directors, as per order passed by

this Court on 1.8.2018. They have furnished the details of 38 companies out of 40. They are contained in Annexures marked as X-1 and X-2.

4. We direct the Registry to apprise the concerned Banks along with the text of the order and the account numbers so furnished. Let the copy of the order be sent to the Banks for its due compliance.

5. It was stated that the personal Bank accounts in the names of the Directors of aforesaid 40 companies are in the process of compilation, and that the account numbers shall be furnished to this Court by Monday, i.e., 6th August, 2018. On the account number being furnished, the Registry is directed to intimate the order to the said Banks also regarding the order passed by this Court on 1.8.2018.

6. Two applications, i.e., I.A.Nos.82917/2018 and 92775/2018 in W.P.(C)No.942/2017 have been filed by the Amrapali Silicon City Flat Owners Welfare Society and Heartbeat City for modification of order dated 17.5.2018. It was also pointed out that one of co-developer, IIFL, has backed out, thus, it was not possible to comply with the order dated 17.5.2018 and same requires modification. The sum of Rs.250 crores has also not been deposited. An application has been filed so as to waive that requirement also. When we see the conduct of the promoter on the various stages, it is apparent that on 18.7.2018 on behalf of the promoter it was stated before us that the Committee

has been constituted by the Government of Uttar Pradesh under the Chairmanship of the Secretary, Ministry of Housing & Urban Affairs, as such we should wait for outcome of same. Yesterday, i.e., on 1.8.2018 it was stated before us that NBCC is now considering to take over the entire project of Amrapali Group as it has issued an advertisement for the purpose and as such the Court should stay in our hands. In the circumstances, it is apparent that the Amrapali Group does not intend to abide by order dated 17.5.2018 and its conduct is dubious. Thus, we have no hesitation in recalling the order dated 17.5.2018 permitting Amrapali Group to complete the projects. We hereby recall the order entrusting the project to the Amrapali Group of companies for completion, along with co-promoters, and we place it on record that the conduct of Amrapali Group of companies is wholly unfair and on each and every date they have been shifting their stand before us and it was absolutely improper on their part to do so. They have violated our order also. They have earlier filed affidavits making certain representations and now want to wriggle out of that. Be that as it may. We recall the order dated 17.5.2018 under the aforesaid circumstances.

7. In the circumstances, as the Chairman of the NBCC is present before us and has shown willingness to undertake the projects, the matter cannot be left at that. Let the NBCC complete the projects, let it undertake the study and

work out the details. Though, time of 45 days was prayed, considering the urgency of the matter, we grant 30 days' time, as the people are deprived of basic necessities of life, and they are residing in some incomplete buildings. We appreciate the gesture of the Chairman of NBCC, who has assured us to complete the projects as may be directed and to submit a proposal in this Court within 30 days. Let a proposal be submitted in 30 days before us.

8. In the circumstances, we direct the promoters and also request Mr. M.L. Lahoty and two other representatives to be nominated by home buyers to assist and submit the details and all requisite documents to the Chairman, NBCC as also to the Chairman of the Committee. NOIDA authority and Greater NOIDA authority shall also furnish to them all the documents which are in their possession. Let promoter, NOIDA authority, Greater NOIDA authority and buyers furnish all the documents/pleadings they have submitted to this Court, within three days from today.

9. We also place on record the appreciation to the offer made by the Chairman, NBCC, and also by Mr. Mishra, Chairman of the Committee. Let them make an endeavour to form policy and to solve problems of other group of companies also. However, the matters are pending in the Court, they have to apprise this Court of their proposals and only thereafter to take steps in this regard.

10. Mr. Anil Mittal, the Chartered Accountant of Anil

Ajay & Company, who is the statutory auditor for most of the companies, is present in the Court. Similarly, Mr. Ravi Kapoor, the Chartered Accountant of Serva Associates is also present in the Court. It is pointed out that the information furnished by them is contained at page 6 and 7 of the compilation Annexure X-1. It is stated by Mr. Anil Mittal that his engagement as statutory auditor has begun in the year 2008 and continued upto 2015. He was the auditor from 2008 and has also stated before us that after 2015 no papers have been given to him. It was stated by Mr. Gaurav Bhatia, learned counsel, that at present S.N. Dhawan & Company is doing the audit of the Company.

11. Since we find that various documents have been placed on record indicating transfer/diversion of fund by the Amrapali Group itself, the Amrapali Group has admitted that out of the six projects, there was transfer/diversion of Rs.2765 crores. Though, it was submitted that the amount was transferred to other projects, but in our opinion, this was clearly diversion of funds. The amount given by the home buyers for the completion of their projects/houses could not have been diverted before completion of the projects. We request the auditors to find out how much money has been so transmitted/diverted to other projects and how it has been used. Let project-wise information of all projects be furnished. The Amrapali Group of Companies shall furnish the requisite information and documents and shall cooperate with the

statutory auditor. Let the auditor certify how much money has been diverted from which project and how it has been used in other projects, including the projects of Heartbeat city. The internal auditor is requested to assist Mr. Anil Mittal in this regard.

12. It was stated before us that the bank accounts of Amrapali Healthcare Pvt. Ltd. have also been freezeed and it is necessary to run the hospital to keep the accounts operational. Considering the fact that the hospital requires money on day-to-day basis, we order de-freezing of account of Amrapali Healthcare Pvt. Ltd. only. However at the same time, we direct that let the details of the bank account(s) of it be placed before us right from 2008 till date. Interim order dated 1.8.2018 to continue unless otherwise ordered.

13. For the purpose of assessing the proposal to be submitted by the NBCC and to pass requisite orders in this regard we fix the hearing on 4.9.2018 at 2.00 p.m. Let the aforesaid reports be submitted by Mr. Anil Mittal and Mr. Ravi Kapoor, Chartered Accounts before 4.9.2018.

For further order of other IAs. and arrangement of funds to be provided to NBCC and regarding furnishing of accounts, let matters be listed on 8.8.2018 at 2.00 p.m.

**Personal presence of Secretary, Housing and Urban Affairs  
and Chairman, NBCC, is dispensed with.**

**(Suman Jain)  
Branch Officer**

**(Sarita Purohit)  
AR-cum-PS**