

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

Transferred Case (Civil) no. 2 of 2004

IN THE MATTER OF:

The Securities and Exchange Board of India ...PETITIONER(S)

VERSUS

The Golden Forests (I) Ltd. ...RESPONDENT(S)

**REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT
(I.A. No. 42747/2021) TO THE COUNTER FILED BY THE
COMMITTEE**

PAPER-BOOK

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ADVOCATE FOR THE APPLICANT : SHUBHAM BHALLA

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THROUGH COUNSEL


(SHUBHAM BHALLA)
Advocate for the Applicant

PLACE : NEW DELHI
DATE :03.12.2021

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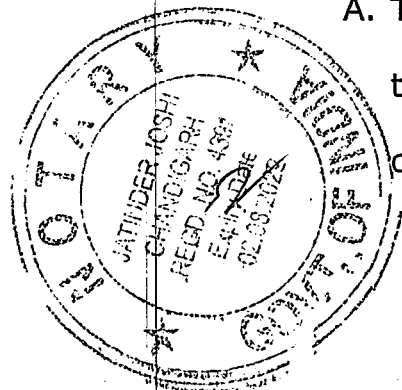
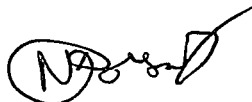
REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT

(I.A. No. 42747/2021) TO THE COUNTER FILED BY THE

COMMITTEE

I, Nikhil Kant Syal, Aged 40 years, S/o Rakesh Kumar Syal, resident of # 573, Sector 12, Panchkula, Majority shareholder of the Golden Forests (I) Ltd.to the short affidavit dated 15.09.2021 filed by the Committee (GFIL),presently at Chandigarh, do hereby state on solemn affirmation as under, do hereby most solemnly state and affirm as under :-

A. That I am the applicant/deponent and I am fully aware of the facts and circumstances of the case and am duly competent to file the present Rejoinder Affidavit.





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- B. That I have read a copy of the Counter Affidavit filed by the Respondent and have understood the contents thereof and in rejoinder thereto I have to state as under.
- C. That each and every contention of the said Counter Affidavit is denied most emphatically, jointly and severally, unless specifically admitted to herein below.
- D. That the contentions and pleadings contained in the Rejoinder Affidavit are part of the record of the Hon'ble High Court and nothing new has been added.

PRELIMINARY SUBMISSIONS:-

1. That the applicant is the son of Sh. R.K. Syal and grandson of Sh. A.L. Syal, who were the founding members of Golden Forests (India) Ltd. The applicant was born in the year 1981 while GFIL was incorporated in the year 1987.

The applicant presumes that the interest of the applicant and the committee are common namely to ensure that all bona fide and genuine investors in the company receive their due amount and to ensure compliance with orders passed from time to time by this Hon'ble Court. The applicant states with due responsibility that at no stage has the applicant ever created any impediment in the working of the committee or sought any



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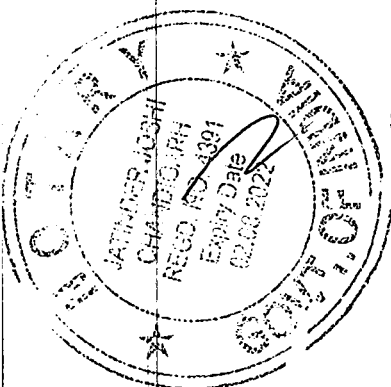
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action against any person acting under orders passed by this Hon'ble court. All that the applicant seeks, and presumably the committee also seeks is a final closure of these proceedings and payment to all investors/creditors of the company so that the applicant and his family may be able to move forward in life. The Applicant belongs to the family that has bought all the properties even the committee deny that the Applicant had inherited advantage in terms of Real Estate buying and selling. The Applicant because of his family background is in touch and many buyer who have shown interest in these properties and if given the chance, can sell these properties expeditiously, and ready and willing to do the same without any cost.

The applicant therefore seeks opportunity to make an attempt to produce before this Hon'ble Court bonafide and genuine buyers who may be interested in purchasing the property of the company and as a result paying off the liabilities of the company expeditiously and to the satisfaction of this Hon'ble Court. The applicant prays that he may be allowed to arrange buyers for the following properties:-

- i. 4 villages situated in Tehsil Manesar, District Gurgaon, Haryana – 170 Acres.

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- ii. 6 villages Kot, Bill, Jaswantgarh in Panchkula Tehsil and District Panchkula, Haryana - 600 Acres.
 - iii. Village Peer Muchalla, Tehsil Zirakpur, District Mohali - 35 Acres.
 - iv. Village Sanauli, Tehsil Zirakpur, District Mohali - 40 Acres.

The applicant if allowed would produce genuine buyers before this Hon'ble court and only after this court is satisfied about the bona fides of the buyers may they be allowed to purchase this property. The fact that ever since the company was placed in liquidation and the committee began selling properties only about 4 properties have been sold per year. If the process continues at this pace not only will the liability continue to swell but the matter would not conclude for the next more than 20 years. The applicant therefore prays that he may be granted opportunity to produce before this Hon'ble court buyers who may be interested in purchase of the above said properties and only after this court is satisfied the person so interested may be allowed to purchase the property. If the applicant succeeds in his endeavor the amounts so collected may bring satisfaction to all investors/creditors.

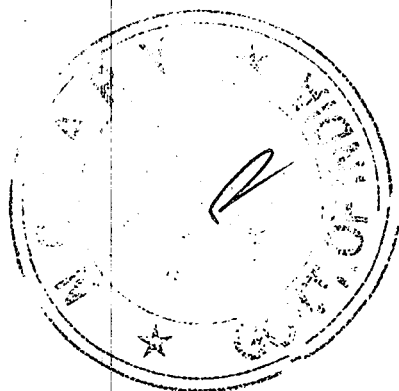
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That vide order dated 25.09.2019, this Hon'ble court had directed the parties to frame issues that may have to be decided. The claimant prays that the following issues be decided so as to enable a just conclusion of these proceedings. The proposed issues are as follows:

- I.** The total number of claimants that remain to be paid.
- II.** What will be the fate of investors who are not traceable?
- III.** What will be the fate of investors whose letter containing cheque has remained undelivered?
- IV.** The mode and manner of calculating interest on investment namely the rate to be paid after the order of liquidation.
- V.** The final cut-off date for deciding the last claim.
- VI.** The fate of the land which is stated to be surplus under the Punjab Land Reforms Act and similar act in Uttrakhand.
- VII.** The revival of the company.
- VIII.** Whether the IT Deptt. could have forcibly taken Rs. 100 Crores from the account of the Committee without seeking any permission from this Hon'ble Court?

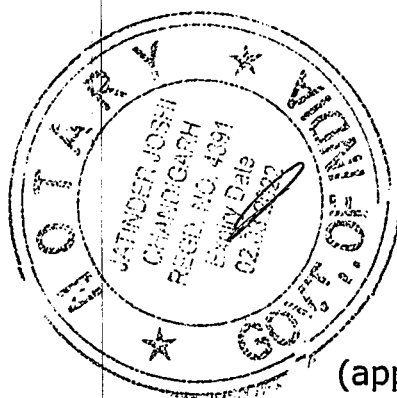


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The question of the applicant's status viz a viz the company raised by the committee is a red herring intended to thwart the just attempt by the applicant as detailed in the preceding paragraphs and would be considered at a later stage but the shareholding of the company is as detailed below. In the year 1999, following was the shareholding pattern of GFIL as per ROC recordout of the total number of shares (total equity) which were 1,00,000:-

Smt. Neena Syal	18300
Sh. A.L. Syal	32500
Sh. R.K. Syal	4300
Smt. Pamila Syal	4400
Ms. Madhulika Syal	11900
Nikhil Syal/Applicant	12400
Ms. Madhurima Syal	11200
Smt. Bimla Syal	5000



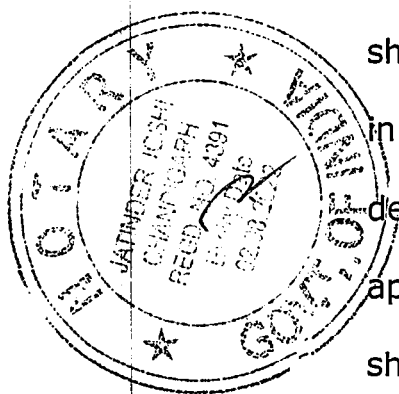
It is pertinent to mention that Sh. A.L. Syal (applicant's grandfather) gave all his shares to Sh. R.K. Syal (applicant's father) by way of a registered will dated 08.03.1989, taking his total number of shares to 36800. Thereafter on the death of Sh. R.K. Syal (applicant's

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father) and Smt. Neena Syal (applicant's mother), their total shareholding was inherited by applicant and his sister Madhurima Syal which stands proved from order dated 27.07.2011 issued by the Permanent Lok Adalat, Panchkula wherein the applicant and his sister are the only two recognized legal heirs. It is appropriate to add here that Sh. A.L Syal died on 19.01.2010 in judicial custody, Smt. Neena Syal died on 31.10.2010 in judicial custody (she was suffering from 4th stage cancer), Sh. R.K Syal died on 06.04.2011 in judicial custody and now Smt. Pamila Syal has left for her heavenly abode on 01.12.2021. Thus, 2 generations have perished with the stigma of the present case and the applicant could only wish that it should no longer haunt him or his children, hence, the present application.

At present, the total shareholding of the applicant is 67500 shares while that of applicant's sister is 11,200 shares. Applicant's sister has given an authorization letter in favor of the applicant that he is entitled to take any decision concerning her shares as well. Therefore, the applicant is entitled to take a decision concerning 78700 shares (78 % of shareholding). A true copy of the will dated 08.03.1989, order dated 27.07.2011 passed by the Permanent Lok Adalat, Panchkula and authorization letter



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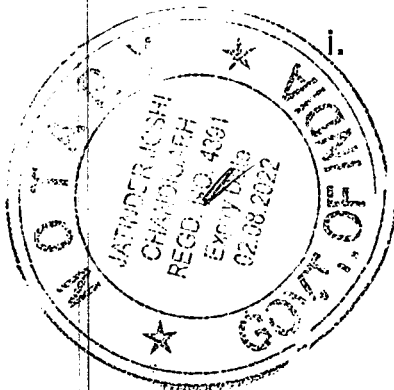
are appended herewith as **Annexure A-10, Annexure A-11 and Annexure A-12.** @ Page No. 37 to 41

It would be appropriate to add here that applicant was about 18 years of age in the year 1999 when the present dispute started and he was studying abroad at that time. Within the next few years the whole of his family was arrested, put behind the bars and his mother and father breathed their last in the jail. The criminal trials against the then directors have come to an end by the death of the directors or by acquittal of certain other persons who were named as accused. The applicant's endeavor is to discharge a moral responsibility towards the investors who but for the unfortunate orders passed by SEBI would have received complete satisfaction as even after passing of more than 25 years their investment is secured by the immoveable assets.

2. A brief narrative of the facts would be necessary:-

- i. The company was flourishing till the time SEBI got a restraint order from the Bombay High Court in the year 1998. Upto this time there was no default, no FIR has been lodged or complaint filed with any court of law but as the company was restrained from transacting business of repayment the order had a

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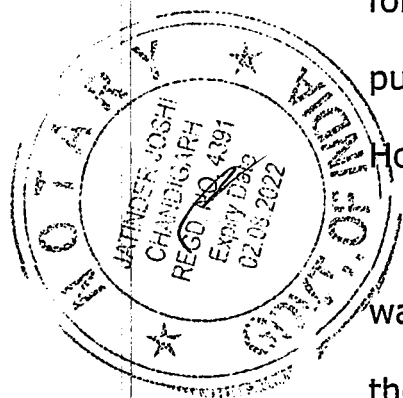


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cascading effect leading to multiple defaults, the business coming to a standstill, the registration of FIR's, the filing of complaints, under the Negotiable Instruments Act, 1881 where the primary reason was non-payment of money due to freezing of accounts of the company by the Bombay High Court and not due to non-availability of funds with the company. The company was caught in a vicious cycle of default, complaints and more defaults which were all beyond the control of the company. A true copy of the brief synopsis of the dates and events for the ready reference of this Hon'ble Court is annexed herewith as **Annexure A-13.** @ Page No. 42 to 46

3. That in the past 17 years, the Committee has only managed to sell 42 properties out of the total properties of over 10,000 acres (approx.). If the Committee continues to work at this place, investors would not be satisfied for the next 20 years. The applicant's endeavor is to search for bonafide and genuine buyers, who will be allowed to purchase the property only after the satisfaction of this Hon'ble Court.

It is appropriate to mention here that the Committee was formed by this Hon'ble Court on 19.08.2004 but in the past 17 years committee has failed to meet its



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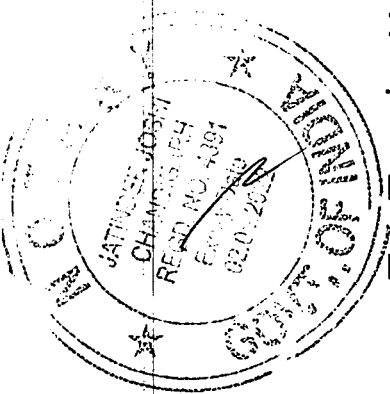
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objectives of settling the claims of the investors. Needless to state that admittedly the principal amount to be paid back to the investors in Rs 900 Crores (approx.) and Committee admittedly has Rs. 700 Crores available for disbursement. Moreover, many time auctions had to be cancelled after collecting bids due to the deficiencies of the Committee because it failed to properly identify or secure unencumbered properties without third party rights and also for the reason that it was not able to accurately value the properties.

It was for these reasons that this Hon'ble Court had entrusted the IT Deptt. to identify, value and sell the properties vide order dated 30.07.2018 (Annexure A-2). At the moment there are 2 Committees working. The Committee which was formed in the year 2004 has not been able to continue selling properties after 30.07.2018 (Annexure A-2) and the IT Officers have been given to sell 23 properties have only managed to sell 6 properties. Therefore the applicant deserves one chance to sell the properties under the aegis of this Hon'ble Court and to provide the entire amount at once.

It is necessary to point out here that in the very first order dated 23.08.2004, this Hon'ble Court had noted that as far as possible the task of realization of assets and

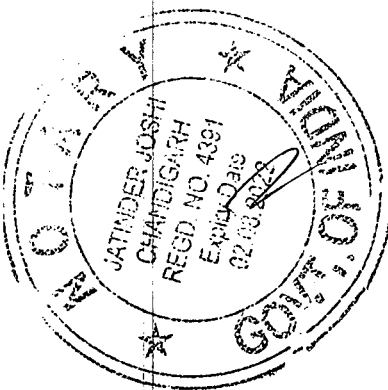
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finalizing claims should be completed by the Committee within a period of 6 months from the date of the order. Be that as it may the fact that the Committee had a huge task at hand but even after passing of 17 years there is no end in sight.

4. That so far as allegations against the applicant are concerned, it is submitted that applicant is neither named in FIR no. 192/2007 nor has any Challan been submitted against him till date. The criminal trials against the then directors have come to an end by the death of the directors or by acquittal of other persons who were named as accused.

It is submitted that Pomila Syal, erstwhile Director of the company was acquitted by ASJ, Roopnagar on 01.07.2013 in FIR No.63 dated 23.12.2000 u/s 406/420/467/468/471/120-B IPC and Section 7(2) of Punjab Land Reforms Act and Section 13(1)(a)(b)(c)(d) of Prevention of Corruption Act, 1988 registered at PS Station Vigilance Bureau, Mohali by setting aside the conviction order dated 19.09.2011 passed by CJM, Roopnagar after holding that basic ingredients of offences under abovesaid sections were not made out against the company or its directors. It is pertinent to mention that the other directors had died in custody during the pendency of the



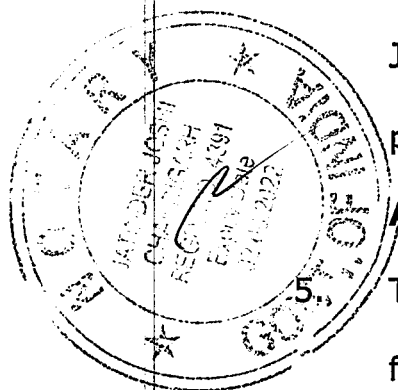
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trial. It is pertinent to mention here that the present ¹² FIR was registered by the Vigilance Bureau on extraneous considerations, though there was no jurisdiction with the vigilance to register the case which was a civil dispute between the investors and the company. It is pertinent to mention that Smt. Pamila Syal has left for her heavenly abode on 02.12.2021. A true copy of the Judgment dated 01.07.2013 in Criminal Appeal NO. 57 of 19.10.2011 passed by Addl. Sessions Judge (FTC) Rupnagar is annexed herewith as **Annexure A-14.** @ Page No. 47 to 67

It is submitted that another FIR No. 62 dated 23.03.2001 u/s 406,420 and 120-B IPC was registered at PS Manimajra, Chandigarh on similar set of allegations, wherein also, all the directors were acquitted by JMIC, Chandigarh vide judgment dated 05.08.2010. It is thus apparent that a flourishing business was brought to the ground by the overzealous SEBI which resulted in filing of these FIRs leading to a domino-effect. A copy of the Judgment dated 05.08.2010 in PC No. 48 of 02.06.2001 passed by JMIC, Chandigarh is annexed herewith as **Annexure A-15.** @ Page No. 68 to 70

That shockingly though there is no reason or justification for the committee to be aggrieved against any proposal to satisfy the claims of the investors the committee seeks to

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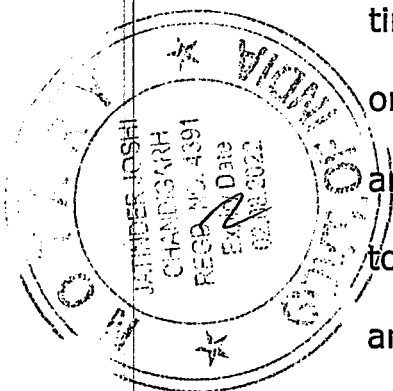




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oppose the proposal. The Committee is not an aggrieved party rather it should be supportive that if given opportunity, the applicant is ready and willing to deposit all the amount and even if, there is an iota of chance of settling all the claims at once, applicant should be given opportunity under the watchful eyes of this Hon'ble Court. It is in everybody's interest that there is an end to this litigation.

6. That this court gave a mandate to the committee but not a never ending mandate All that the applicant seeks is a time bound conclusion to the case and opportunity to the claimant to sell property to the satisfaction of this court, deposit the money in the escrow account for payment by the committee to investors etc.
7. That the applicant is not seeking any transfer of power from the committee to identify investors and pay them but is only proposing a mechanism whereby there is a one-time settlement as approved by this Hon'ble Court based on the number of investors, principal amount and the final amount to be paid and opportunity to sell the properties, to make available the said sum which can then be kept in an escrow account and the committee can very well keep identifying and paying the investors out of it. It is the inordinate delay by committee in realizing assets to get



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the funds for settling claims which is agonizing and the
paceat which committee has worked, there seems to be no
end in sight. Applicant only wants opportunity to make an
earnest effort to end this litigation by depositing a sum
which would be sufficient to settle all claims and achieve
closure once for all.

REPLY ON MERITS:-

1. That the contents of para no. 1 of the short affidavit need no reply being formal.
2. That in reply to the contents of para no. 2 of the short affidavit, it is submitted that the applicant alongwith his sister is having shareholding to the tune of 78%(approx.). In the year 1999, following was the shareholding pattern of GFIL as per ROC record out of the total number of shares (total equity) which were 1,00,000:-

Smt. Neena Syal	18300
Sh. A.L. Syal	32500
Sh. R.K. Syal	4300
Smt. Pomila Syal	4400
Ms. Madhulika Syal	11900
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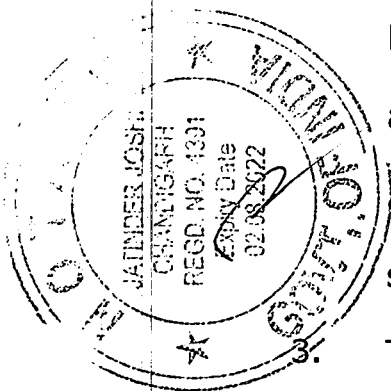
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It is pertinent to mention that Sh. A.L. Syal (applicant's grandfather) gave all his shares to Sh. R.K. Syal (applicant's father) by way of a registered will dated 08.03.1989, taking his total number of shares to 36800. Thereafter on the death of Sh. R.K. Syal (applicant's father) and Smt. Neena Syal (applicant's mother), their total shareholding was inherited by applicant and his sister Madhurima Syal which stands proved from legal heir certificate dated 27.07.2011 issued by the Permanent Lok Adalat Panchkula.

At present, the total shareholding of the applicant is 67500 shares and that of applicant's sister are 11,200 shares because the sister of the applicant has relinquished the shares inherited from Sh. R.K. Syal (applicant's father) and Smt. Neena Syal (applicant's mother) in favor of the applicant. Applicant's sister has given an authorization letter in favor of the applicant that he is entitled to take any decision concerning her shares as well. Therefore, the applicant is entitled to take a decision concerning 78700 shares (78 % of shareholding).

That in reply to the contents of para no. 3 of the short affidavit, it is submitted that the majority of the cases pertained to cheque bounce because the accounts of the



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company had been frozen due to the action taken by SEBI and subsequent court proceedings and it was thus natural for the cheques to get bounced. It is however, pertinent to mention that till the SEBI started the present proceedings and the restraint orders were not issued against the company, there was no default on the part of the company.

It is submitted that Pamila Syal, erstwhile Director of the company was acquitted by the appellate Court of ASJ, Roopnagar on 01.07.2013 in FIR No.63 dated 23.12.2000 u/s 406/420/467/468/471/120-B IPC and Section 7(2) of Punjab Land Reforms Act and Section 13(1)(a)(b)(c)(d) of Prevention of Corruption Act, 1988 registered at PS Station Vigilance Bureau, Mohali by setting aside the conviction order dated 19.09.2011 passed by CJM, Roopnagar holding that basic ingredients of offences under abovesaid sections were not made out against the company or its directors. It is pertinent to mention that rest of the directors had died in custody during the pendency of the trial.

It is submitted that one more FIR No. 62 dated 23.03.2001 u/s 406,420 and 120-B IPC was registered at PS Manimajra, Chandigarh on similar set of allegations, wherein also, all the directors were acquitted by JMIC,

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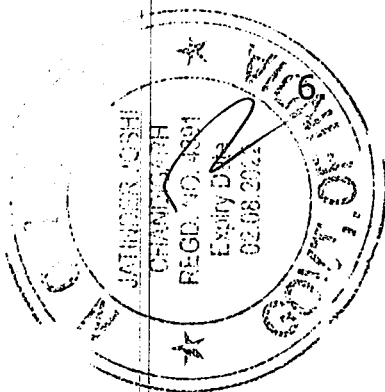
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Chandigarh vide judgment dated 05.08.2010. It is thus apparent that a flourishing business was brought to the ground by the overzealous actions of SEBI which resulted in filing of these FIRs as a domino-effect.

4. That the contents of para no. 4 of the short affidavit are denied being wrong and incorrect. The criminal trials against the then directors have come to an end by the death of the directors or by acquittal of certain other persons who were named as accused.
5. That the contents of para no.5 of the short affidavit are denied being wrong and incorrect that there was any irregularity on the part of the company. It is well apparent that a flourishing business was brought to the ground by the overzealous actions of SEBI in passing wrong orders which resulted in filing of these FIRs as a domino-effect.

That in reply to the contents of para no.6 of the short affidavit, it is submitted that the Hon'ble Bombay High Court only restrained the Company from disposing off the properties but the company was allowed to carry out activities in routine course of business.

7. That the contents of para no.7 of the short affidavit need no reply being a matter of record.



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8. That the contents of para no.8 of the short affidavit need no reply being a matter of record.
9. That the contents of para no.9 of the short affidavit are a matter of record to the extent that the said orders have been issued by this Hon'ble Court. It is well apparent that a flourishing business was brought to the ground by the overzealous actions of SEBI which resulted in filing of these FIRs as a domino-effect.
10. That the contents of para no.10 of the short affidavit need no reply being a matter of record.
11. That the contents of para no.11 of the short affidavit need no reply being a matter of record.
- 12-14. That the contents of para nos.12 to 14 of the short affidavit are denied being wrong and incorrect.

It is submitted that in the status report dated Status report dated 27.07.2005 filed by the Committee before this Hon'ble Court, it had made many admissions about the problems it was facing. It has been admitted by the Committee in para no. 2 under the Sub-heading CLAIMS OF DEPOSITORS of the said status report that the company stopped its business in December 2000 and all the directors were in jail, however unscrupulous agents continued to receive deposits for the period 2001-2004. There are no receipts of the company with such claims and

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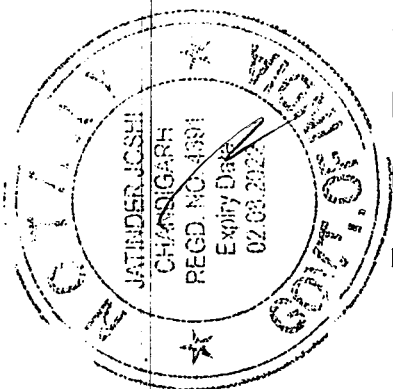
many agents prepared fictitious deposits and sent bogus claims without any supporting documents which run into crores of rupees.

It has also been admitted by the Committee, under the Sub-heading PROPERTIES of the said status report that it is unable to identify, recover possession and secure properties due to various issues and the Properties situated in Pachkula were sold illegally while properties in Nalagarh and York health resort have been illegally occupied by various unauthorized people. Lands in Jharmari and KotBilla have also been taken over by unauthorized people, thus, the Committee admits that it is not in position to look after all these properties.

In the Status report dated 12.09.2011 filed by the Committee before this Hon'ble Court, it is admitted in para no.2 of the said status report that as on 06.09.2011, only 26 properties have been auctioned by the committee realizing 303 Crores (approx) and it is further admitted in para no.6 of the said status report that total funds lying to the credit of the Committee are 329 Crores and 91 Crores more is to be received by Committee by 22.09.2011.

In the Status report filed by committee in compliance of order dated 07.08.2012 passed by this Hon'ble Court, it is admitted in Para nos. 13 and 14 of the

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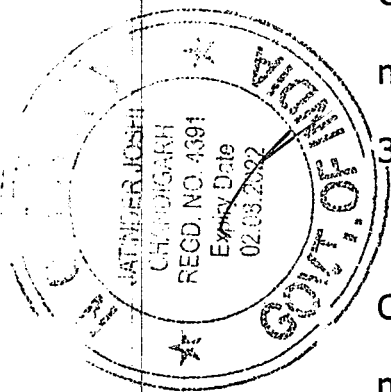
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said status report that total actionable claims are 13.5 lacs in case of GFIL for which the principal amount is Rs. 770 Crores and total actionable claims are 1.5 lakh in case of Golden Projects Ltd. for which the principal amount is Rs. 131 Crores. It is further recorded by the committee in Para no.15 of the said status report that total liability towards the Govt. and its agencies is Rs 8 Crores and in Para no. 16 of the said status report, it is recorded that the Committee has collected Rs. 567.5 Crores through auction sale.

It is further admitted in Para no.17 of the said status report that an amount of Rs 137.55 Crores collected from sale of some property in surplus land quota has been kept separately in a suspense account till the final decision on the surplus land dispute. It is further there in Para no. 21 of the said status report that after excluding Rs. 200 Crores kept in the suspense account and the miscellaneous expenses of the Committee, a sum of Rs. 367 Crores is left for disbursement to the investors.

In the Status report dated 30.09.2015 filed by the Committee before this Hon'ble Court, it is admitted in Para no.2 of the said status report that the total amount lying to the credit of the Committee is 600 Crores (approx.), which is stated to be the sum total of amount realized

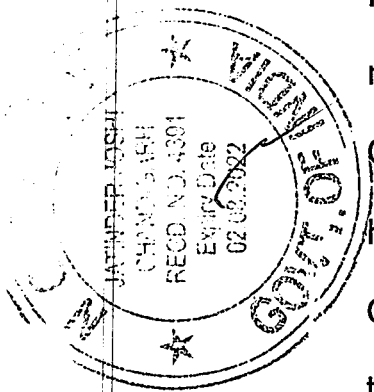


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through auction sale as well as the amount lying in the bank accounts of Golden Forests Group. It is further recorded in Para no.2 of the said status report that after deducting the amount belonging to the Golden projects and that received from sale of surplus land, the committee has a sum of Rs 449.5 Crores available for disbursement to the investors. Thereafter, in Para nos.10 and 11 of the said status report, the Committee submits that it needs Rs 50 Crores for its expenses and Rs 5-7 Crores as disbursement expenses and therefore, it is recorded in Para no. 11 of the said status report that after deducting its own expenses, Committee determines the fund available for disbursement to the investors to be Rs 392.5 Crores, keeping aside the claims of IT Deptt. and EPFO.

In the Status report filed by the Committee in compliance of the order dated 02.05.2018 passed by this Hon'ble Court, it is admitted in Para no.3 of the said status report that the Committee has realized a sum of Rs 1100 Crores through auction sale out of which Rs 300 Crores has been refunded under the direction of this Hon'ble Court while Rs 100 Crores has been forcibly withdrawn by the IT Deptt and now the Committee is left with Rs 700 Crores for disbursement to the investors.



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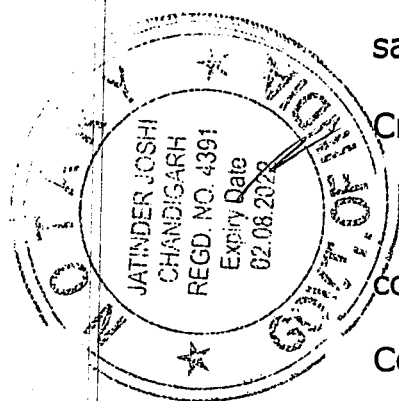
In the latest Status report dated 14.11.2021 filed by the Committee before this Hon'ble Court, it is admitted by the Committee in Para no.4 of the said status report that it has collected Rs 548 Crores through auction sale of 42 properties.

It is pertinent to mention that in the status report dated 07.08.2012, Committee had given a figure of Rs. 567.5 collected through auction whereas in the year 2021, the figure has reduced to Rs 548 Crores rather than increasing. One more shocking thing is that in the status report dated 02.05.2018, Committee has stated that it has realized Rs 1100 Crores through auction out of which Rs 300 Crores was returned on the directions of this Hon'ble Court while a sum of Rs 100 Crores was taken away by the IT Deptt. forcibly leaving the Committee with a sum of Rs 700 Crores collected through auction. Then it is not understandable how the amount collected through auction sale in the latest report has been reduced to Rs 548 Crores.

Thus, it is crystal clear that there are huge contradictions in the various reports filed by the Committee leaving a lot to be answered.

Furthermore, there is no explanation in the latest report about the sum of Rs 200 Crores which was kept in a

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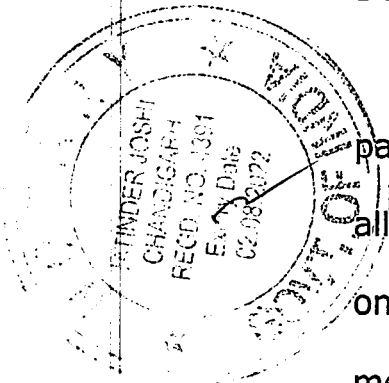
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suspense account as per status report dated 02.05.2018. Similarly there is no explanation or justification in the latest report about the sum of Rs 50 Crores which committee had kept aside for its own expenses as per status report dated 30.09.2015. Moreover, in different status reports different amount has been stated to be available for disbursement and other purposes by showing different expenses or subtractions but the same expenses are then not carried down to the later reports, which casts great doubt about the reliability of the data given in the reports.

Therefore, there were profound reasons for this Hon'ble Court to be displeased with the working of the Committee and then asking it to file correct and specific reports and moreover, that was also the reason that on 07.05.2019, the task of selling the properties was taken away from the Committee and then handed over to IT Deptt. expecting better efficiency and clarity.

It is submitted that committee itself admits in this paragraph that there is no evidence with them, thus the allegations by the committee are without any basis and only a figment of their imagination. It is pertinent to mention that till date committee did not bring any report

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with evidence in support of these allegations before this Hon'ble Court that are being made after a gap of 17 years.

So far as the allegations against the applicant are concerned, it is submitted that applicant is neither named in the FIR no. 192/2007 nor has any Challan been submitted against him till date. The criminal trials against the then directors have come to an end by the death of the directors or by acquittal of certain other persons who were named as accused.

It is submitted that Pamila Syal, erstwhile Director of the company was acquitted by the appellate Court of ASJ, Roopnagar on 01.07.2013 in FIR No.63 dated 23.12.2000 u/s 406/420/467/468/471/120-B IPC and Section 7(2) of Punjab Land Reforms Act and Section 13(1)(a)(b)(c)(d) of Prevention of Corruption Act, 1988 registered at PS Station Vigilance Bureau, Mohali by setting aside the conviction order dated 19.09.2011 passed by CJM, Roopnagar holding that basic ingredients of offences under abovesaid sections were not made out against the company or its directors. It is pertinent to mention that rest of the directors had died in custody during the pendency of the trial.

It is submitted that one more FIR No. 62 dated 23.03.2001 u/s 406, 420 and 120-B IPC was registered at

N.K.S

PS Manimajra, Chandigarh on similar set of allegations, wherein also, all the directors were acquitted by JMIC, Chandigarh vide judgment dated 05.08.2010. It is thus apparent that a flourishing business was brought to the ground by the overzealous actions of SEBI which resulted in filing of these FIRs as a domino-effect.

15. That in reply to the contents of para no.15 of the short affidavit, it is submitted that facts speak for themselves. That in the past 17 years committee has failed to meet its objectives of settling all the claims by investors and it was for this reason that this Hon'ble Court had thereafter entrusted IT Deptt., to identify, value and sell the properties vide order dated 30.07.2018 (Annexure A-2).

This Hon'ble Court had also expressed its displeasure with the working of the committee vide order dated 25.02.2019 (Ann. A-4).

Unfortunately, even the IT Deptt. has failed to achieve any substantial results and in the past 3 years only 6 properties have been sold out of the 23 properties identified for sale which were approved by this Hon'ble Court for the purpose. A bare perusal of Annexure R-1 filed by the Committee along with status report dated 14.11.2021 would show that the last property was sold on 23.05.2023 by the committee and the committee

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admittedly had a corpus of 700 Crores for disbursement since then but neither it has been able to locate all the investors nor it has been able to release 70% of principal even to the identified investors.

It is pertinent to mention few instances here viz. one property situated at Lalru, Mohali was bought in auction by Libra Buildtech for a sum of Rs 110 Crores and even the sale deed was got registered but the whole thing had to be cancelled later on after the whole process took nearly 1.5 years.

Similarly, a property at Panchkula was auctioned and got valued by the Committee at Rs 5 Crores but the applicant had approached this Hon'ble Court because the actual market value was around Rs. 10 Crores and because of that reason, the said auction was also cancelled. This could one of the reasons for the Committee to be aggrieved of the actions of the applicant who had only been trying to ensure that properties fetch their real value.

16-17. That the contents of para nos. 16 and 17 of the short affidavit are denied being wrong and incorrect. It is submitted that from 2012 to 2016 applicant had been regularly going in compliance of the notices sent by the committee and had made all the necessary information

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available. It was only last year when the applicant was outside country that he could not go to the committee at their asking.

It is submitted that the committee is levelling baseless personal allegations against the applicant when it should be happy that there is a proposal to settle the claims at once. It is not understandable why the committee wants to prolong the agony of the buyers and what would be the benefit achieved by the investors if the committee keeps on working for many more years to come with no end in sight.

Shockingly, there is no reason or justification for the committee to be aggrieved from any proposal to satisfy the claims of the investors. It is submitted that the Committee is not an aggrieved party rather it should be supportive that if given opportunity, applicant is ready and willing to deposit all the amount and there is even an iota of chance of settling all the claims at once, applicant should be given opportunity under the watchful eyes of this Hon'ble Court. It is in everybody's interest that there is ultimately an end to this whole litigation. This court gave a mandate and committee could not do it even after passing of 17 years. This was the reason that the task of identifying and selling the properties was taken from it

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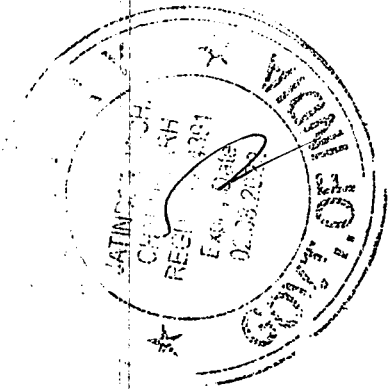
and given to the IT Deptt., since the committee lacked the expertise to value the properties and find buyers leading to it working at a snail's pace. Applicant is only asking for a time bound direction, committee may very well keep disbursing the funds from the escrow account after the applicant makes the full and final payment.

18. That the contents of para no.18 of the short affidavit are denied being wrong and incorrect. It is submitted that the applicant alongwith his sister is having shareholding to the tune of 78% (approx.). In the year 1999, following was the shareholding pattern of GFIL as per ROC record out of the total number of shares (total equity) which were 1,00,000:-

Smt. Neena Syal	18300
Sh. A.L. Syal	32500
Sh. R.K. Syal	4300
Smt. Pamila Syal	4400
Ms. Madhulika Syal	11900
Nikhil Syal/Applicant	12400
Ms. Madhurima Syal	11200
Smt. Bimla Syal	5000

It is pertinent to mention that Sh. A.L. Syal (applicant's grandfather) gave all his shares to Sh. R.K.

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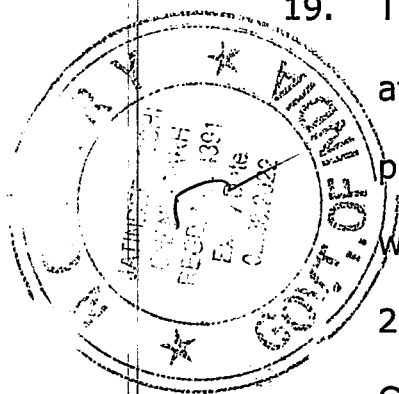


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Syal (applicant's father) by way of a registered will dated 08.03.1989, taking his total number of shares to 36800. Thereafter on the death of Sh. R.K. Syal (applicant's father) and Smt. Neena Syal (applicant's mother), their total shareholding was inherited by applicant and his sister Madhurima Syal which stands proved from legal heir certificate dated 27.07.2011 issued by the Permanent Lok Adalat Panchkula.

At present, the total shareholding of the applicant is 67500 shares and that of applicant's sister are 11,200 shares because the sister of the applicant has relinquished the shares inherited from Sh. R.K. Syal (applicant's father) and Smt. Neena Syal (applicant's mother) in favor of the applicant. Applicant's sister has given an authorization letter in favor of the applicant that he is entitled to take any decision concerning her shares as well. Therefore, the applicant is entitled to take a decision concerning 78700 shares (78 % of shareholding).

19. That in reply to the contents of para no.19 of the short affidavit, it is submitted that the order dated 30.07.2018 passed by this Hon'ble Court already records this position which the committee is again reiterating at the end of 2021. A bare perusal of Annexure R-1 filed by the Committee alongwith status report dated 14.11.2021



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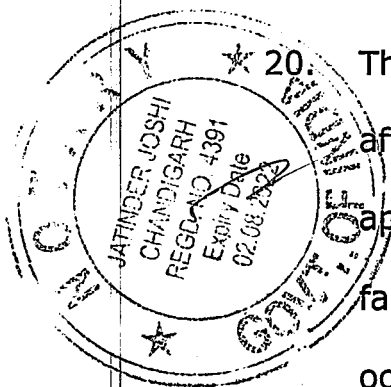


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would show that the last property was sold on 23.05.2013 by the committee and the committee admittedly had a corpus of 700 Crores for disbursement since then but neither it has been able to locate all the investors nor it has been able to release 70% of principal even to the identified investors. It was for the very reason that the task of identifying and selling the properties was handed over to IT Deptt. since the committee lacked the expertise to value and hold auction after identifying buyers but unfortunately even the IT Deptt. has failed to achieve any substantial results and in the past 3 years only 6 properties have been sold out of the 23 properties identified for sale which were approved by this Hon'ble Court for the purpose.

Moreover, there are huge contradictions in the various reports filed by the Committee leaving a lot to be answered. The submissions made in reply to para nos. 12 to 14 may kindly be read herein as well and are not being repeated for the sake of brevity.

That in reply to the contents of para no.20 of the short affidavit, it is submitted that it is for the first time that the applicant is seeking permission to sell the properties. So far as challenge to the sale notices is concerned, on many occasions this Hon'ble Court had set aside the auction by

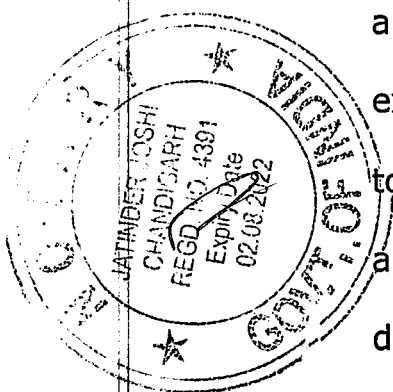


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committee due to low valuation of the properties. Applicant has already given few instances above where this Hon'ble Court had set aside the auction sale by the committee.

It is submitted there is no reason or justification for the committee to be aggrieved from any proposal to satisfy the claims of the investors. It is submitted that the Committee is not an aggrieved party rather it should be supportive that if given opportunity, applicant is ready and willing to deposit all the amount and there is even an iota of chance of settling all the claims at once, applicant should be given opportunity under the watchful eyes of this Hon'ble Court. It is in everybody's interest that there is ultimately an end to this whole litigation. This court gave a mandate and committee could not do it even after passing of 17 years. This was the reason that the task of identifying and selling the properties was taken from it and given to the IT Deptt., since the committee lacked the expertise to value the properties and find buyers leading to it working at a snail's pace. Applicant is only asking for a time bound direction, committee may very well keep disbursing the funds from the escrow account after the applicant makes the full and final payment.

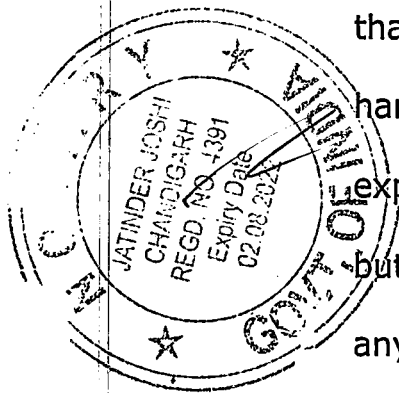


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The committee has also lost sight of the fact that more than 17 years have passed since its constitution and even in the present affidavit it is referring to the mandate given to it by this Hon'ble Court vide orders passed in 2004 - 2008, which could not be denied but that itself shows the failure of the committee. It is submitted that the order dated 30.07.2018 passed by this Hon'ble Court already records this position which the committee is again reiterating at the end of 2021. A bare perusal of Annexure R-1 filed by the Committee alongwith status report dated 14.11.2021 would show that the last property was sold on 23.05.2023 by the committee and the committee admittedly had a corpus of 700 Crores for disbursement since then but neither it has been able to locate all the investors nor it has been able to release 70% of principal even to the identified investors. It was for the very reason that the task of identifying and selling the properties was handed over to IT Deptt. since the committee lacked the expertise to value and hold auction after identifying buyers but unfortunately even the IT Deptt. has failed to achieve any substantial results and in the past 3 years only 6 properties have been sold out of the 23 properties identified for sale which were approved by this Hon'ble Court for the purpose.

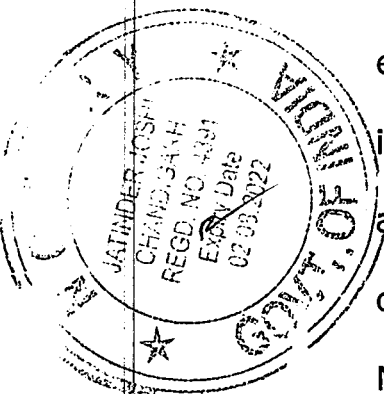


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21. That the contents of para no.21 of the short affidavit are denied being wrong and incorrect. It is pertinent to mention that till date committee has not brought any report with evidence in support of these allegations before this Hon'ble Court that are being made after a gap of 17 years.
22. That the contents of para no.22 of the short affidavit are denied being wrong and incorrect. The submissions made above are reiterated and are not being repeated for the sake of brevity.
23. That the contents of para no.23 of the short affidavit are denied being wrong and incorrect. It is submitted that applicant was not named as an accused in the said FIR but his name was added later on the basis of a disclosure statement given by a co-accused but since there was no evidence against the applicant, he was not charge sheeted in the said case. It is submitted that agitating for his rights and pointing out the problems in the working of the committee is not a criminal offence under any law. Moreover, the allegations by the committee are all in the air because till date no court of law has found the applicant guilty of committing any illegality. So much so even the committee did not take any action to get those



N.K.S

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sale deeds cancelled if there was any illegality in the process.

24. That the contents of para no.24 of the short affidavit are denied being wrong and incorrect. It is submitted that the genuineness and feasibility of the proposal is to be examined by this Hon'ble Court and it would not be fair for the committee to observe anything when it itself has failed to carry out the task over the past 23 years. The applicant would be working right under the watchful eyes of this Hon'ble Court and the applicant just wants a peaceful end to the whole litigation by seeking opportunity to sell within a time bound period and to satisfy the full and final claim as determined by this Hon'ble Court.

25. That the contents of para no.25 of the short affidavit are denied being wrong and incorrect. It is submitted that at present the mandate to sell the properties has been taken away from the committee due to its earlier tardy pace and lack of expertise and the same has been handed over to the IT Deptt. It would be not appropriate for the committee now to seek permission for selling more properties when it has already been found wanting and

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lacking in performing its task at the desired pace.
Needless to add that only 48 properties have been sold
over a period of 23 years.

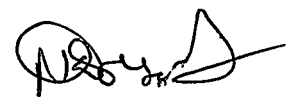
As per the last orders in this regard, IT Deptt., which
had got approval from this Hon'ble Court for the sale of 23
identified properties has barely managed to sell
6 properties in the past 3 years. It is distressing to submit
that in this manner this can go endlessly.

26. That the contents of para no.26 of the short affidavit are
denied being wrong and incorrect. It is submitted that the
present application may kindly be allowed and the
proposal of the applicant may kindly be accepted as
prayed for in the main IA.

27.

PRAYER

It is, therefore, respectfully prayed that the present
application may kindly be allowed and the proposal of the
applicant may kindly be accepted, in the interests of justice,
equity and fair play.



DEPONENT

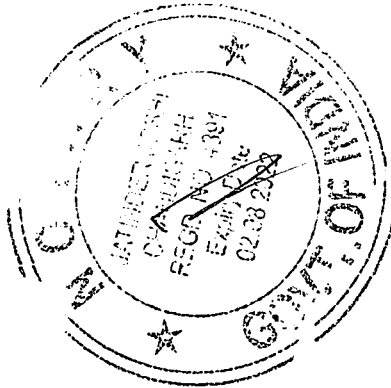
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VERIFICATION

I, the deponent mentioned above do hereby most solemnly affirm and verify that what is stated in the above Affidavit is true to my knowledge and I believe the same to be true.

Verified at Chandigarh on 3rd day of December, 2021.

3267
NOTARY PUBLIC
CHANDIGARH
02/08/2021



[Signature]

DEPONENT

ATTESTED

[Signature]
NOTARY PUBLIC
CHANDIGARH

03 DEC 2021

16796

WILL

I, A.L. Soyal son of Shri Gaman Lal Soyal resident of SOO 845, Manimajra, U.T. Chandigarh do hereby make and declare my this will this 8th day of March 1989 at Chandigarh

Whereas I have shares in Golden Forest Industries Ltd. as in Golden Group of Companies registered office at Manimajra, U.T. Chandigarh.

And whereas I have 2 Kanal residential plot on road adjacent to E.S.I. Building Kapurthala on this road for 99 years. This is my self acquired property.

It is my wish and desire that that my shares referred to above shall be owned and inherited by my son A.L. Soyal exclusively and residential plot will be shared by both sons name Rakesh Kant Soyal and Rajesh Soyal in equal after my death. I am making this will in soundness of mind.

In witness whereof I have set my hands on this document of will at Chandigarh this 8th day of March 1989 in the presence of the witnesses.

Witness No. 1.

[Signature]
M. R. Jodh
Chandigarh

No. 2. *Pamila Soyal*
845, Man Majra
Chd.

COMPARED

ATTESTED

[Signature]
Notary
Chandigarh

38

of will is presented before me by S. A.L. Syal
S. A.L. Syal aged 60 years resident of
Chandigarh today the 3rd March, 1989
for registration in the office of the
Chandigarh.

[Signature]
Sub Registrar, Chandigarh.

The executant of this will admits
the execution and contents therein to be true and correct.
He is assisted by S. N.R. Joshi, Advocate, Chandigarh and
with the witnesses are known to each other and the first
witness is personally known to me.

[Signature]
Sub Registrar, Chandigarh.

[Signature]
Advocate Chandigarh

[Signature]
S.A.L. Syal
845, Main Market
CHD

CERTIFICATE
Registered in Book No. 3
Page No. 110
March

[Signature]
True Copy

38-A

ANNEXURE A-10

WILL

I, A.L.Syal son of Shri Gumani Lal Syal resident of SCO 845, Mani majra, UT Chandigarh do hereby make and declare my this will this 8th day of March 1989 at Chandigarh.

Whereas I have shares in Golden Forest India Ltd. As well as in Golden Group of Companies registered office at residential plots _xxxxx_ Manimajra, UT Chandigarh.

And whereas I have 2 kanal residential plots _xxxxx_ Road adjacent to E.S.I. Building Kapurthala on lease _xxxxx_ for 99 years, this is my self-acquired property.

It is my wish and desire that that my shares referred to above shall be owned and inherited by my son Sh. _xxxxx_ Syal exclusively and residential plot will be shared _xxxxx_ both sons/name Rakesh Kant Syal and Rajesh Syal in equal _xxxxx_ after my death. I am making this will in soundness of _xxxxx_.

In witness whereof I have set my hands on this _xxxxx_ of will at Chandigarh this 8th day of March 1989 in the _xxxxx_ of the witnesses.

Sd/-
Executant

Witness No. 1
Sd/-
Witness No. 2
Sd/-

38-B

xxxxx of will is presented before me by S. A.L. Syal
xxxxx Sh. Gumani Lal Syal, aged 60 years resident of
xxxxx Manimajra, UT Chandigarh today the 8th March, 1989
xxxxx hours for registration in the office of this
xxxxx , Chandigarh.

Sd/-

Sd/-

Executant

Sub-Registrar, Chandigarh

The executant of this will admit the due execution and contents therein to be true and correct. He is identified by Sh. N.R. Joshi Advocate, Chandigarh and N.R. Joshi, and _xxxxx_ .

Sd/-

Sd/-

Executant


Sub-Registrar, Chandigarh

Witness No. 1

Sd/-

Witness No. 2

Sd/-


SHUBHAM BHAAULA.
// TRUE COPY //

Case No. 254/CS
Date of Inst.:- 07.06.2011.
Date of deci.-27.07.2011.

Nikhil Syal aged about 31 years son of Late Sh. Rakesh Kant Syal son of Sh. Amrit Lal Syal son of Sh. Gumani Lal Syal, resident of House No. 573, Sector-12, Panchkula.

Petitioner.

Versus

Ms. Madhurima daughter of Sh. Rakesh Kant Syal (wife of Sh. Akshay Arora), resident of House No. 758, Ward No. 5, Krishna Colony, Ladwa, District Kurukshetra (Haryana).

Respondent.

Petition under section 19 (5) (ii) of the Legal Services Authorities Act, 1987 read with regulation 21 (2) of the Haryana Legal Services Authorities (Transaction of business and other provisions) regulation 1998 for a declaration that petitioner and the respondent are the only legal heirs of Sh. Rakesh Kant Syal son of Sh. Amrit Lal Syal and Smt. Neena Syal wife of Sh. Rakesh Kant Syal, their parents to inherit and succeed the properties movable and immovable left by Sh. Rakesh Kant Syal son of Sh. Amrit Lal Syal and Smt. Neena Syal wife of Sh. Rakesh Kant Syal.

Present. - Shri S.K.Sud, Advocate, for the petitioner.
Shri Amit Kumar, Advocate, for the respondent.

AWARD

Nikhil Syal has filed a petition at pre litigation stage, against Smt. Madhurima, seeking a declaration about the legal heirs of Shri Rakesh Kant Syal and his wife Smt. Neena Syal. Settlement between the parties has been arrived at and their statements have been recorded.

ATTESTED

Read by *Amrit Lal Syal*
V.K. KAUSHAL, 1/8/11.
Presiding Judge,
Samjhauta Sadan, Permanent
Lok Adalat, Panchkula

V.K. Kaushal

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2. One Shri Amrit Lal Syal had two sons named Rakesh Kant Syal and Rajesh Syal. Shri Amrit Lal Syal died on 19.01.2010 and copy of his death certificate is Ex.C1. Sh. Rakesh Kant Syal has also died and copy of his death certificate is Ex.C2. Smt. Bimla Syal was the grand mother of the petitioner (wife of Amrit Lal Syal) and she had died on 01.12.1999. Copy of her death certificate is Ex.C3. Smt. Neena Syal was the mother of the petitioner and she died on 31.10.2010. Copy of her death certificate is Ex.C4. The petitioner has stated that after the death of his parents, he himself and his sister Smt. Madhurima are their only legal heirs. This fact is admitted by Smt. Madhurima, respondent in her statement given before this Lok Adalat/Samjhauta Sadan also in a written statement filed on her behalf. In order to corroborate his testimony, petitioner Nikhil Syal has examined his uncle named Rajesh Syal. He is younger brother of Rakesh Kant Syal, who has since died. He has stated that after the death of his brother Rakesh Kant Syal and his Bhabhi Smt. Neena Syal, there is no other legal heir except the petitioner and the respondent.

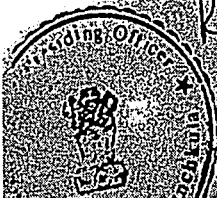
3. On the basis of the statements given by the parties, as per admissions made in the written statement and the corroborative evidence of Shri Rajesh Syal, it is declared that after the death of Shri Rakesh Kant Syal and his wife Smt. Neena Syal, there are only two legal heirs, who are Nikhil Syal, petitioner and Smt. Madhurima, respondent. The petition filed by the petitioner at pre litigation stage accordingly, allowed. File be consigned to the record room.

ANNOUNCED
27.07.2011

V.K. Kaushal
(V.K. Kaushal)
Presiding Judge,
Lok Adalat/Samjhauta
Sadan, Panchkula.

ATTESTED

Rachita Arora
(V.K. KAUSHAL)
Presiding Judge,
Samjhauta Sadan, Permanent
Lok Adalat, Panchkula



ad
True Copy

(41)

TO WHOM IT MAY CONCERN

I Madhurima Syal, D/o Late Mr. Rakesh Kant Syal & Late Mrs. Neena Syal, W/o Mr. Akshay Arora,

R/o 3005, 55 ST. BEAUMONT, AB, CANADA T4X 2B4

Do hereby declare the following:

1. That me and my brother Mr. Nikhil Kant Syal, S/o Late Mr. Rakesh Kant Syal & Late Mrs. Neena Syal, are the only legal heirs of our parents.
2. That me and my brother have a very cordial and loving relationship.
3. That my parents had shareholding in various companies in India, namely Golden Forests India limited, Golden Projects Limited, Golden Tourists Resorts and several other companies, trusts and societies.
4. That as per our mutual understanding (between me and my brother) all the shareholdings of my parents in any company/trust/society et.al belongs to my brother. Myself and/or my heirs have no claim over the same.
5. That I myself am a shareholder in many of these companies/trusts/societies. My brother is authorised to take any decision, file any case/application etc on my behalf as he seems fit.

That I have declared the above of my free will and to help my brother in any legal proceedings in any court of law.

Madhurima

Akshay Arora

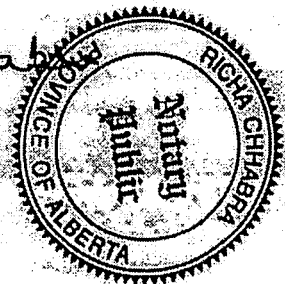
Dated: November 29/21

Place: Edmonton / AB

Signed & affirmed
before me

Richa Chhabra

Richa Chhabra
Notary Public
in and for Alberta being a solicitor



True Copy

DATE	EVENT
1987	<ul style="list-style-type: none"> Golden Forests (India) Ltd. was incorporated on 23.02.1987
1994	<ul style="list-style-type: none"> By 7th financial year, the turnover of the company was Rs 154 Crs
1997	<ul style="list-style-type: none"> By 10th financial year, the turnover of the company was Rs 1000 Crs
1998	<ul style="list-style-type: none"> On 09.01.1998, SEBI prohibits GFIL from all activities viz. promoting/launching schemes, alienating earlier acquired properties/assets etc.
23.11.1998	<ul style="list-style-type: none"> SEBI filed Winding-Up petition no. 34 of 1998 before Bombay High Court against GFIL. Order passed by Bombay High Court mentions that admittedly company has assets worth Rs 1350 Crs Proposal made by company to repay all the investors with 10% rate of interest on principal was accepted and company undertook to settle all claims by 31.03.1999 Restraint order passed against the company, its directors and subsidiaries, however company was allowed to carry on with the regular course of business. Subsequently claim petitions filed across the country against GFIL.
2000	<ul style="list-style-type: none"> Directors of the company arrested on 24.12.2000 by the Vigilance Bureau, Punjab in FIR No.63 dated 23.12.2000 u/s 406/420/467/468/471/120-B IPC and Section 7(2) of Punjab Land Reforms Act and Section 13(1)(a)(b)(c)(d) of Prevention of Corruption Act, 1988 registered at PS Station Vigilance Bureau, Mohali. Restraint order passed by Bombay High Court with further restrictions on alienation of properties against the company, its directors and subsidiaries. Justice (retd) M L Pendse appointed as private receiver for sale of 19 properties vide order dated 31.01.2000.
2001	<ul style="list-style-type: none"> Company petition no. 60 of 2001 filed before Punjab and Haryana High Court against GFIL. On 17.08.2001, the Hon'ble Punjab and Haryana High Court restrained the company from alienating any property. GFIL also filed CP no. 237 of 2001 seeking permission to enter into agreement with the investors. On 20.12.2001, company was directed to give wide publicity to the proposal for proposed arrangement and to seek objections by interested persons.
2002	<ul style="list-style-type: none"> On 02.05.2002, petition for winding up was accepted and directed to be published. On publication of admission notice, objections were filed by various investor groups. On 01.08.2002, company withdrew the CP No. 237 of 2001 because none of the buyers had shown interest due to the parallel restraint order passed by the Bombay High Court and the physical disability of all the directors who have been arrested.
2003	<ul style="list-style-type: none"> Order dated 18.06.2003 passed by Hon'ble Punjab and Haryana High Court appointing provisional liquidator with powers to manage, control and sell the properties of the company. All the property of the company deemed to be in custody of the liquidator. Investigation by independent auditors into the affairs of the company. It is admitted in the order that company has assets worth Rs 1071.55 Crs in addition to 33880 Crs of moveable assets and bank balance as on 31.12.1997

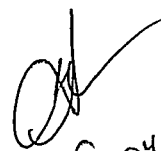
	<ul style="list-style-type: none"> • It is admitted that the total liability of the company as on 31.12.1997 is 761 Crs. • It is admitted that Justice (ret'd) M L Pendse appointed as private receiver has not been able to sell any property.
2002-2003	<ul style="list-style-type: none"> • SEBI approaches this Hon'ble Court for transfer of all cases pending across the Country to this Hon'ble Court. • Transfer Case (Civil) no. 2 of 2004 registered vide order dated 12.09.2003 •
2004	<ul style="list-style-type: none"> • On 27.07.2004, after taking cognizance of reports by Justice(ret'd) R.N. Aggarwal and Justice (ret'd) M L Pendse, proposal to appoint a central committee is moved. • On 17.08.2004 restraint order is passed by this Hon'ble Court against GFIL and all other courts/forums/tribunals/authorities not to deal with the properties of GFIL. • On 19.08.2004, Committee appointed to take over assets and settle claims. Justice (ret'd.) K T Thomas appointed Chairman. • On 10.09.2004, Justice (ret'd.) R N Aggarwal appointed as Chairman.
27.07.2005	<ul style="list-style-type: none"> • Status report dated 27.07.2005 filed by the Committee before this Hon'ble Court <p>Under the Sub-heading CLAIMS OF DEPOSITORS</p> <ul style="list-style-type: none"> • Para 2 - Upto 19.02.2005, 7,86,542 claims received and by the extended time upto 20.05.2005, 87,609 more claims received • Para 2 - Admitted by the committee that the company stopped business in December 2000 and all the directors were in jail, however unscrupulous agents continued to receive deposits for the period 2001-2004. There are no receipts of the company with such claims. • Para 2 - Agents prepared fictitious deposits and sent bogus claims without any supporting documents which run into crores of rupees. • Para 2 - Pertaining to 3,59,143 receipts analyzed by the committee, sum of Rs. 233 Crs stands invested. <p>Under the Sub-heading PROPERTIES</p> <ul style="list-style-type: none"> • Committee has admitted that it is unable to identify, recover possession and secure properties due to various issues. • Properties situated in Pachkula were sold illegally while properties in Nalagarh and York health resort have been illegally occupied by various unauthorized people. Lands in Jharmari and Kot Billa taken over by unauthorized people. • Committee admits that it is not in position to look after all these properties. <p>Under the Sub-heading FUNCTIONING</p> <ul style="list-style-type: none"> • Committee suggests that it would need atleast a year to receive and process all the claims.
Order dated 05.09.2006 (Annexure A-1)	<ul style="list-style-type: none"> • Status report filed by committee sought various directions from this Hon'ble Court for identifying and disposing assets of GFIL. • Hon'ble SC issued elaborate directions for running the committee • Committee was reconstituted by removing RBI and SBI members and nominating Sh. B.S. Bedi and Sh. H.L. Randev (retired District Judges) • Cut-off date for claims fixed as 10.08.2006 • No claim shall be entertained where deposit has been taken by the agent after 31.12.2000 • Surplus land issue is kept open
2010 - 2011	<ul style="list-style-type: none"> • Sh.A.L Syal died on 19.01.2010 in judicial custody • Smt. Neena Syal died on 31.10.2010 in judicial custody (she was suffering from 4th stage cancer) • Sh. R.K Syal died on 06.04.2011 in judicial custody
05.08.2010	<ul style="list-style-type: none"> • All the directors of GFIL were acquitted by JMFC, Chandigarh vide judgment dated 05.08.2010 in FIR No. 62 dated 23.03.2001 u/s 406,420 and 120-B IPC was registered at PS Manimajra, Chandigarh

	by some of the investors because the prosecution failed to lead any evidence despite numerous opportunities.
12.09.2011	<ul style="list-style-type: none"> • Status report dated 12.09.2011 filed by the Committee • Para 2 - Admittedly as on 06.09.2011, only 26 properties auctioned by committee realizing 303 Crs (approx) • Para 6 - Total funds lying to the credit of the Committee are 329 Crs and 91 Crs more is to be received by Committee by 22.09.2011
07.08.2012	<ul style="list-style-type: none"> • Status report filed by committee in compliance of order dated 07.08.2012 passed by this Hon'ble Court • Para 4 - Committee received around 18 Lakh claims in total from investors of GFIL and 1 lakh claims from investors of Golden Projects Ltd. • Para 6 - Committee admits that no claim was received by the Committee qua the other 108 companies/trusts etc. of the Golden Forests group. • Para 7 - Around 8000 claims received after the cut-off date, Committee suggests that these may also be included. • Para 10 & 11 - 20000 Claims were repetitive so rejected, 1.5 lakh claims not supported by any document also rejected. • Para 12 - It is conceded that committee could not scrutinize each and every claim and it scrutinized claims starting from Rs 10 Lacs onwards. Committee assumed truthfulness of claims which are for small amounts like Rs. 5,000 etc. • Para 13 & 14 - In the abovesaid manner, total actionable claims are 13.5 lacs in case of GFIL for which the principal amount is Rs. 770 Crs and total actionable claims are 1.5 lakh in case of Golden Projects Ltd. for which the principal amount is Rs. 131 Crs. • Para 15 - Total liability towards Govt. and its agencies is Rs 8 Crs. • Para 16 – Committee has collected Rs. 567.5 Crs through auction sale • Para 17- Amount of Rs 137.55 Crs collected from sale of some property in surplus land account kept separately in suspense account till the final decision on the surplus land dispute. • Para 21 – After excluding Rs. 200 Crs kept in suspense account for miscellaneous expenses, Committee has Rs. 367 Crs left for disbursement to investors. • Para 22 - Around 11 lakhs of the total investors i.e. 14.5 lakh are small investors whose principal is upto Rs. 5000 and total liability qua them is Rs. 220 Crs . • Para 23- Committee suggests to settle claims on 11 lakh small investors at once by a one- time settlement method of paying one time interest @ 25% which comes out to be Rs. 55 Crs.
01.07.2013	<ul style="list-style-type: none"> • Pomila Syal, only living Director of the company was acquitted by the appellate Court of ASJ, Roopnagar on 01.07.2013 in FIR No.63 dated 23.12.2000 u/s 406/420/467/468/471/120-B IPC and Section 7(2) of Punjab Land Reforms Act and Section 13(1)(a)(b)(c)(d) of Prevention of Corruption Act,1988 registered at PS Station Vigilance Bureau, Mohali by setting aside the conviction order dated 19.09.2011 passed by CJM, Roopnagar holding that "basic ingredients of offences under abovesaid sections were not made out against the company or its directors.
30.09.2015	<ul style="list-style-type: none"> • Status report dated 30.09.2015 filed by the Committee. • Para 2 – Total amount lying to the credit of the Committee is 600 Crs (approx.) , this is the sum total of amount realized through auction sale as well as the amount lying in the bank accounts of Golden Forests Group. • Para 7 – After deducting the amount belonging to Golden projects and surplus land sale, committee determines the sum available for disbursement to be Rs 449.5 Crs. • Para 10 & 11 – Committee submits that it needs Rs 50 Crs for its expenses and Rs 5-7 Crs as disbursement expenses

	<ul style="list-style-type: none"> • Para 11 – After deducting its own expenses, Committee determines the fund available for disbursement to be Rs 392. 5 Crs, keeping aside the claims of IT Deptt. and EPFO.
02.05.2018	<ul style="list-style-type: none"> • Status report filed by the Committee in compliance of the order dated 02.05.2018 passed by this Hon'ble Court. • Para 3 – Committee admits that it has realized Rs 1100 Crs through auction sale out of which Rs 300 Crs has been refunded under the direction of this Hon'ble Court while Rs 100 Crs has been forcibly withdrawn by the IT Deptt and now the Committee is left with Rs 700 Crs.
Order dated 30.07.2018 (Annexure A-2)	<ul style="list-style-type: none"> • Committee filed status report • Claimants against GFIL 13,34,391 amount totaling 768.93 Crs • Claimants against Golden Projects 1,39,437 amount totaling 130.58 Crs • Total Claimants 14,73,828, Total Principal Amount 899.51 Crs • Committee admits 700 Crs available for disbursement and 100 Crs attached by IT Deptt. • SC directed payment of 70% of the Principal to all the investors out of the available amount.
Order dated 05.09.2018 (Annexure A-3)	<ul style="list-style-type: none"> • Table for Golden Projects Ltd. Corrected • IT Deptt. directed to carry out valuation of properties and hold auction • Surplus land issue is kept open
Order dated 25.02.2019 (Annexure A-4)	<ul style="list-style-type: none"> • Hon'ble SC expressed displeasure with the committee for filing vague reports.
Order dated 06.03.2019 (Annexure A-5)	<ul style="list-style-type: none"> • Committee admits it has difficulty in collecting data for disbursement
Order dated 07.05.2019 (Annexure A-6)	<ul style="list-style-type: none"> • As on date, only Rs. 1,71,45,536/- distributed to 1458 investors, efforts on to identify bank details of another 970. • Hon'ble SC directed IT Deptt. to complete valuation of 23 identified properties by 30.06.2019 and hold auctions
Order dated 14.01.2020 (Annexure A-8)	<ul style="list-style-type: none"> • Earnest money/bid received for only 5 out of 23 properties identified by IT Deptt.
14.11.2021	<ul style="list-style-type: none"> • Status report dated 14.11.2021 filed by the Committee before this Hon'ble Court • Para 4 – Committee admits that it has collected Rs 548 through auction sale of 42 properties • Para 4 – IT Deptt. has collected Rs 13 Crs by selling 6 properties out of 23 properties directed by this Hon'ble Court to be sold on 07.05.2019. • Para 7 & 8 – Committee admits it failed to protect the interests of investors by not being able to identify/secure possession of any property in Dehradun. • Para 9 – Orders are being passed by Dehradun revenue courts in violation of this Hon'ble Court's order. • Para 10 – Committee has paid 70% to 9,55,000 investors, payment to 2,25,000 investors is in process and details of 2,40,000 are incorrect/efforts are on to locate them. • Para 10 - Rs 458.94 Crs paid to investors till July 2021 and Rs 292 Crs lying with the committee • Para 10 – Committee submits that it has received more claims from investors after the cut-off date, however the number of such investors and claim amount has not been disclosed by the committee. • Para 11 – Committee expressed its inability to protect the land in

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	<p>Telangana from being put to fake auction due to non-co-operation of local authorities.</p> <ul style="list-style-type: none">• Para 13 – Committee admits that Surplus land cases in Punjab not decided till date despite huge delay• Para 14 - Committee admits that Surplus land cases in Uttrakhand also not decided till date despite huge delay• Para 15 – Committee admits that Govt. of Uttrakhand has taken over the land of GFIL despite pendency of cases before lower courts.• Para 16 – Committee is not contesting the recovery of Rs 100 Crs by the IT Deptt.
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Copy of Judgment

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IN THE COURT OF SHRI AJAI SINGH,
ADDL. SESSIONS JUDGE, (PTC) RUP NAGAR.

Criminal appeal no.57 of 19.10.2011

AND RBT no.50 of 10.11.2012

Date of Decision : 1.7.2013.

Pomila Syal d/o Amrit Lal Syal, son of Ghuman Lal Syal aged about 56 years, resident of H.no.573, sector 12, Panchkula, Haryana.

.....appellant/accused no.2.

Versus

1. State of Punjab

respondent

Appeal against the judgment and order dated 19.9.2011 passed by the court of Mrs. Mandeep Kaur, PCS, Chief Judicial Magistrate, Ropar in police challan no RT260/28-2, 2001/7-6, 2007, FIR no. 63 of 23-12-2000 under section 406/ 420/467/468/471/120-B(2) Punjab land reforms act and 13 (1) (a) (b) (c) (d) of Prevention of corruption Act, 1988, Police station, Vigilance Bureau, Patiala vide which she has passed sentence order u/s 420/120-B of IPC wrongly and illegally against the appellant/accused to undergo rigorous imprisonment for a period of two years each under both sections which shall run concurrently and also imposed fine of Rs.5000/- in each both and in default of payment of fine he will further undergo rigorous imprisonment for a period of 20 days.

Addl. District Sessions Judge.

RUPNAGAR

Present Appellant in custody with Sh. RK Sharma Advocate.

Sh. Bhupinder Singh, Addl. PP for the state/respondent.

JUDGMENT

The appellant Pomila Syal d/o Amrit Lal Syal, son of Ghuman Lal Syal aged about 56 years, resident of H.no.573, sector 12, Panchkula, Haryana has filed this criminal appeal for challenging the judgment dated 19.9.2011 passed by the learned Court of Mrs. Mandeep Kaur, PCS, Chief Judicial Magistrate, Ropar whereby the appellant has been convicted under section 420/120-B of IPC and order dated 19.9.2011 whereby the appellant has been sentenced to undergo rigorous imprisonment as stated therein.

2. The notice of the main appeal was issued towards the state. The learned Addl. PP on receipt of the notice of the same, has appeared to contest the same. The record of the learned trial Court requisitioned from the record of the same, has also been received for the said purpose.

3. The appellant alongwith Amrit Lal Syal, Rakesh Kumar, Neenu

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Subordinate
District & Sessions Judge, Rupnagar
Authorised u/s 76 of the Indian
Evidence Act, 1972

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Sayal, Rajesh Sayal, Hartesh Kumar Sayal, Lehmer Singh, Vinod Mahajan and Tilak Raj Mehta was sent up by SHO of police station Vigilance Bureau Patiala for facing trial for commission of offences punishable under section 406/420/ 467 /468 /471 /120-B of IPC 7 (2) Punjab Land reforms act and 13 (1) (a) (b) (c) (d) of Prevention of corruption Act, 1988 before the sessions court Ropar by referring that the proceedings under section 82 of Cr.PC were pending against the accused Vinod Mahajan, Naresh Kumar, KS Rawat and Tilak Raj Mehta. The backdrops of the story of the prosecution are that M/s Golden project limited company, as came to know through reliable sources in the then DSP Saroop Singh, Vigilance Bureau, was got registered on 1.1.1996 vide registration no.16-17.5.2012 by giving address of Chandigarh Delhi Marg, Rajpura. Thereafter the non-financial, non-banking, gazetted industrial classification code no.5 was allotted by the said department to the company. Then RK Sinhal son of AK Sinhal, resident of H.no.537, sector 12, Panchkula, Bhula wife of AK Sinhal, resident of H.no.537, sector 12, Panchkula, Promithi resident of H.no.537, sector 12, Panchkula, Romila Sinha wife of HK Sinha son of NK Sinha, resident of H.no.568, sector 12 Panchkula were appointed as directors of the said concern from time to time. The purpose of the said company was connected with the agriculture. The company purchased land in the area of Punjab for development of agriculture for the purpose of planting forest trees etc over the same and also collected money from general public for the said purpose and assured the depositors by issuing post cheques to make the payment after expiry of tenure of the same. The said company also purchased the land in the area of sub Tehsil Nurpurbedi, District Ropar and also collected money from the general public through fixed deposits for purchasing the land measuring 460 acre. The said concern mostly purchased the land through power of attorney holders by making minimum payments of the same to the land holders and got the sale deeds of the property executed by showing more value of the said land. The said concern did not carry out any work of development over the said land mostly lying undeveloped. The said concern also did not deliver the possession of said land to any investor. The cheques issued by the company in favour of investors were dishonored. The directors of the said company in furtherance of their common intention cheated the general public by dishonestly abusing them to invest in said very

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manner and by purchasing the said land, violated the provisions of section 3 and 6 of Punjab Land Reforms act and were liable to face the consequences under section 7(2) of the said act. Thereafter Sh. Saroop Singh the then DSP Vigilance Bureau Ludhiana drafted ruga to the said effect and sent the same to the police station through C. Gurdeep Singh for registration of FIR under section 406/420/467/468/471/120 B of IPC and under section 7 (2) of Punjab land reforms act 1972. Thereafter formal FIR of the present case under the said offences was registered and the investigation was initiated, during the course of which rough, the statements of the witnesses were recorded and relevant record of the company was taken into police possession. The challan, after completing all the formalities of the investigation, was prepared and was presented before the court against the appellant and others.

4. The copies of report submitted under section 173 of Cr.PC on its presentation before the court against the appellant and others were supplied to the said appellant and others as required under section 207 of Cr.PC as a free of costs vide their separate statement recorded to the said effect.

5. The appellant and others, after hearing arguments of the learned APP for the respondent/state and of the learned counsel for the appellant and others on finding a good prima facie substance of material, then presumed to have been made out for framing charge under section 406/ 420/467/468/471 / 120-B of IPC and under section 7(2) of Punjab Land Reforms Act and under section 13(1) (a) (b) (c) (d) of Prevention of Corruption Act, 1988 from the crux of of the report submitted under section 173 of Cr.PC against the said appellant and others, were charge sheeted under 406/ 420/467 /468 /471 / 120-B of IPC and under section 7 (2) of Punjab Land Reforms Act and under section 13(1) (a) (b) (c) (d) of Prevention of Corruption Act, 1988, to the contents of which the appellant and others did not plead guilty but claimed trial by taking separate plea to the said effect.

6. The respondent/prosecution in order to prove the charge sheet of 9.8.2001 examined PW1 Sakta Singh, PW2 Lakhwinder Singh, PW3 Lakhan Beri, PW4 Karam Singh, PW5 Jaspal Singh, PW6 Sadhu Singh, PW7 Niranjn Singh, PW8 Maninderjit Kaur, PW9 Ramon Aggarwal, PW10 C Malkiat Singh, PW11 Lady constable Kulwinder Kaur, PW12 Bali Ram, PW13 Amrik Singh, PW14 Richan Sindwani, PW15 Ravinder Saini, PW16

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Surinder Singh, PW17 Jayant trehan, PW18 Phuman Singh, PW19 Madhu Bala, PW20 HN Mehra, PW21 Raj Kumar Kautas, PW22 Han Parkash, PW23 HC Jagannath, PW24 Maninder Dass, PW25 Ramji Dass, PW26 Amarjit Singh, PW27 Kamal Chand, PW28 Jaswant Singh, PW29 Ashok Kumar Gupta, PW30 Kishan Lal, PW31 Kewal Krishan Jolly, PW32 Krishan Lal, PW33 Joga Singh, PW34 Harcharan Singh, PW35 Manjit Singh, PW36 Kewal Krishan son of Munshi Ram, PW37 AS Dhatta, PW38 Vinod Jolley, PW39 Dharamvir Kohli and PW40 Parveen Kumar. The case thereafter in compliance of order dated 7.5.2007 passed by the hon'ble Punjab & Haryana High Court for quashing the charges framed against the appellant and others under section 13 (1(a) (b) (c) (d) of the prevention of corruption Act, in terms of Criminal revision no.1621 of 2001, preferred by the appellant and co accused, was referred under section 228 of Cr.PC to the then learned court of Chief Judicial Magistrate, Ropar vide order dated 6.6.2007. The respondent/ prosecution thereafter also examined PW41 Daljit Kaur, PW42 Ashwani Kumar Duggal, PW43 SK Arora, PW44 Rajni Sablok, PW45 Harbans Singh, PW46 Sabiha Sultana, PW47 Daljit Singh, PW48 Balpreet Singh and PW49 Raj Rani before the learned court of Chief Judicial Magistrate but could not conclude its evidence because the evidence of respondent/prosecution was closed by order dated 2.8.2011 as per history of the case. The proceedings against the accused Amrit Pal Sayal since deceased, accused Neena Sayal since deceased and Rajesh Sayal since deceased died during the pendency of the case were abated vide separate orders thereof.

7. The statements under section 313 of Cr.PC of the said appellant and co accused were recorded separately by putting incriminating evidence whatever could be led on the record by the respondent/prosecution but the appellant and co accused denied the same and closed their defence evidence by bringing some documents accordingly in the same.

8. The arguments of the learned APP for the respondent/State and learned counsel for the appellant and co accused were heard by the learned trial court with regard to the following points for determination of offence alleged to have been committed by the appellants thereof:-

I. Whether the appellant Vice Chair Person of the company and co accused in their own capacity of the company, during the

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period from 1987 to 2000 hatched a criminal conspiracy to cheat the public at large and in pursuance of the same, were entrusted Rs.34764920/- by depositors/persons in the area of District Ropar and Ludhiana and promised to return the amount in double to the depositors/persons after a period of 1-1/2 years but converted the same for own use & misappropriate the same?

2. Whether the appellant and co accused in such capacity of the said company during the said period, in pursuance of criminal conspiracy hatched by them, purchased hilly/barren land in the area of village Sakhpura, Sub Tehsil Nurpur Bedi, District Ropar and showed an amount of Rs.2772806/- for development of the land in the record of the company but did not spend the same rather forged 47 vouchers to the said effect?

3. Whether the appellant and co accused in such capacity of the said company during the said period, in pursuance of criminal conspiracy hatched by them, forged 47 vouchers in the area of district Ropar with the intention that the same should be used for the purpose of cheating the depositors?

4. Whether the appellant and co accused in such capacity of the said company during the said period, in pursuance of criminal conspiracy hatched by them, used the said forged 47 vouchers as genuine for cheating the depositors?

5. Whether the appellant and co accused in such capacity of the said company during the said period, in pursuance of criminal conspiracy hatched by them, cheated the various depositors/investors by inducing them to deliver the total amount of Rs.34764920/- in the shape of fixed deposits?

without referring the same in the Judgment under appeal in any form.

9. The respondent/prosecution in order to substantiate the points for determination of the offence allegedly committed by the appellant and co accused examined PW1 Sakta Singh who while in the witness box deposed with regard to amount Rs.10 PA bearing his signature while which the record of the company was taken in possession on 27.12.2000. Then PW2 Lakhwinder Singh, while in the witness box only deposed about depositing an amount of

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Rs. 10000/- by him, an amount of Rs. 10000/- by his father Karam Singh and an amount of Rs. 10000/- by his brother Parveen Kumar against assurance given by agent of the company that the same would be double after a period of three years apart from depositing about issuing their post dated cheques of Rs. 20000/- each to him, his father and brother, dishonoured ultimately on presentation. This witness brought copy Mark A of receipt, copy Mark B of receipt and copy mark C of cheque and copy mark D of receipt on record. Then PW3 Lakhani Beri examined by the respondent/prosecution stepped in the witness box and despite being declared as hostile deposed about depositing an amount of Rs. 500/- per month up to year 1994 apart from depositing that he after completing installments was given post dated cheque corresponding to Copy Ex. PB apart from further depositing that an amount of Rs. 15000/- was deposited by his sister Rajni Dahi with the company against post dated cheque corresponding to copy Ex. PC. This witness also brought copy Ex. PB/1 of memo vide which the cheque given to him by the company was dishonoured and copy Ex. PC/1 of memo vide which the cheque given to his sister was dishonoured. Thereafter PW4 Karam Singh examined by the respondent/prosecution also stepped in the witness box and deposed about depositing an amount of Rs. 5000/- with the company apart from depositing that a post dated cheque for a sum of Rs. 2000/- corresponding to copy Ex. PE was given to him. This witness also deposed that the cheque having maturity on 12.8.2000 was dishonoured apart from bringing copy Ex. PF of memo of the same. This witness brought copy Ex. PG of guarantee cum performance issued by the company to the said effect. Then PW5 Jaspal Singh examined by the respondent/prosecution also stepped in the witness box deposed about depositing an amount of Rs. 5000/- in favour of his wife Amarjit Kaur for six years with the company apart from depositing that the receipt corresponding to copy mark PF and post dated cheque corresponding to mark D were given to him. This witness also deposed that the said cheque thereafter was deposited with the company but the company did not clear the same in his favour apart from depositing that an amount of Rs. 5000/- was deposited in the name of his mother Ajit Kaur against receipt corresponding to copy Ex. PJ apart from depositing that the cheque corresponding to copy mark E thereafter was issued but on presentation with the company was retained by the company. This

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witness also deposed about depositing an amount of Rs.5000/- in the name of his daughter Gagandeep Kaur against receipt corresponding to copy Ex.PK and post dated cheque corresponding to copy Ex.PF apart from deposing that the cheque on presentation with the company was retained by the company. This witness also deposed about depositing Rs.200/- per month from the year 1994 and deposited an amount of Rs.14400/- also having maturity value of Rs.30000/- on 28.11.2000 as per copy Ex.PL of original receipt but the said amount was not released till then. Then PW6 Sudhu Singh examined by the respondent/prosecution also stepped in the witness box and deposed about investing an amount of Rs.10000/- on 10.10.1994 and another amount of Rs.10000/- on 28.12.1994 against receipt corresponding to copy Ex.PW6/A and copy Ex.PW6/B of the same and post dated cheques of Rs.40000/- each corresponding to copies Ex.PW6/C and Ex.PW6/D apart from deposing that the said cheques on presentation were dishonoured as per copy Ex.PW6/E of memo and copy Ex.PW6/F of another memo respectively of the same. This witness brought copy Ex.PW6/I and copy Ex.PW6/H of receipts showing maturity of said deposits apart from deposing that nothing was returned to him. Then PW7 Niranjan Singh examined by the respondent/prosecution also stepped in the witness box and also deposed about investing an amount of Rs.30000/- in the year 1994 and Rs.10000/- in the year 1997 against post dated cheques corresponding to copy Ex.PW7/I to Ex.PW7/4 apart from also deposing that the said cheques were dishonoured and he was not paid anything by the company. Then PW8 Maninderjit Kaur examined by the respondent/prosecution also stepped in the witness box and deposed about depositing an amount of Rs.10000/- against post dated cheque of copy Ex.P8/1 apart from deposing that she was not paid the said amount by the company.

10. Then PW9 Raman Aggarwal chartered accountant/tax consultant brought Ex.PW9/A of income tax return for the year 1996, copy Ex.PW9/B of income tax return for the year 1997-98, copy Ex.PW9/C of income tax return for the year 1998-99 and copy Ex.PW9/D of income tax return for the year 1999-2000 of accused RK Sayal, copy Ex.PW9/E of income tax return for the year 1996-97, copy Ex.PW9/F of income tax return for the year 1997-98, copy Ex.PW9/G of income tax return for the year 1998-99 and copy Ex.PW9/H of income tax return for the year 1999-2000 of the appellant.

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Pomila Sayal, copy Ex.PW9/I of income tax return for the year 1996-97, copy Ex.PW9/J of income tax return for the year 1997-98, copy Ex.PW9/K of income tax return for the year 1998-99 and copy Ex.PW9/L of income tax return for the year 1999-2000 of accused Meena Sayal, copy Ex.PW9/M of income tax return for the year 1996-97 and copy Ex.PW9/N of income tax return for the year 1997-98, copy Ex.PW9/O of income tax return for the year 1998-99 of accused Vinila Sayal, copy Ex.PW9/P of income tax return for the year 1997-98, copy Ex.PW9/Q of income tax return for the year 1998-99 and copy Ex.PW9/R of income tax return for the year Madhulika Sayal and copy Ex.PW9/S of income tax return for the year 1996-97, copy Ex.PW9/T of income tax return for the year 1997-98, copy Ex.PW9/U of income tax return for the year 1998-99 and copy Ex.PW9/V of income tax return for the year 1999-2000 of Amrit Lal Sayal apart from deposing with regard to memo Ex.PW9/W vide which the same was taken in to police possession. Then PW10 Malkiat Singh examined by the respondent/prosecution also stepped in the witness box and deposed with regard to memo Ex.PW10/A vide which the accused AK Sayal was arrested in this case on 24.12.2000. Then PW11 Lady Kulwinder Kaur deposed about memo Ex.PW11/A vide which the appellant Promila Sayal was arrested on 24.12.2000. Thereafter Bali Ram examined by the respondent/prosecution also stepped in the witness box and deposed that he was working as agent with Golden Forest India limited from the year 1987 onward apart from deposing that his work was to collect the money and deposit the same with company against commission apart from deposing that an amount of Rs.171000/- was collected by him from his friends and relatives against post-dated cheques and deposited the same with company. This witness also deposed that the cheques were not cleared and the amount was not paid by the company. Then PW13 Amrik Singh examined by the respondent/prosecution also stepped in the witness box brought copies Ex.P13/A to P13/N of sale deeds executed in favour of Golden Forest India limited Mani Majra apart from deposing that the same were taken in police possession vide memo Ex.PW13/O bearing his signatures. Thereafter PW14 Richan Sindwani examined by the respondent/prosecution also stepped in the witness box and brought copy mark A of receipt issued by the Golden Forest India Limited against Rs.5000/- deposited by her with the same. Then PW15

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Ravinder Saini examined by the respondent/prosecution also stepped in the witness box and brought copy Ex.P15/A of memorandum and articles of association and copy Ex.PW15/B of certificate of the corporation on record. Thereafter PW16 Surinder Singh examined by the respondent/prosecution also stepped in the witness box and deposed about selling the land measuring 300 acre inherited by him from his father to the Golden Forest India Limited, SCO no.834, Mani manjra company through their advisor in the year 1992 at the rate of Rs.3200/- per killa against amount of Rs.240000/- vide sale deeds dated 29.12.1992 apart from deposing that the said land was not developed by the company. Then PW17 Jayant Trehan examined by the respondent/prosecution also stepped in the witness box and deposed that the Golden Forest India limited was joined by him in the year 1996 as a marketing executive and worked up to the month of December 2000 as such and thereafter this witness was declared as hostile with regard to the case of the prosecution. Thereafter PW18 Phuman Singh examined by the respondent/prosecution also stepped in the witness box and deposed about depositing an amount of Rs.10000/- against receipt with the company and thereafter was also declared as hostile with regard to the remaining part of the case of the prosecution. Thereafter PW19 Madhu Bala examined by the respondent/prosecution also stepped in the witness box and deposed about investing an amount of Rs.50000/- at one time apart from deposing that she was defrauded by the company. Then PW20 HN Mehra being senior manger of Allahabad Bank examined by the respondent/prosecution stepped in the witness box and brought copies Ex.PW20/1 to Ex.PW20/10 of opening account no.4721 in the name of Sh. AL Sayal, account no.3525 in the name of appellant, account no.5216 in the name of Neena Sayal, account no.5218 in the name of Madhu Rima Sayal through guardian Reema Sayal and account no.5383 in the name of Nikhal Kant opened in the bank. Then PW21 Raj Kumar Kautas examined by the respondent/prosecution also stepped in the witness box and deposed about depositing an amount of Rs.3000/- for himself in his own name and Rs.3000/- in the name of his wife Sunech Lata against receipts corresponding to Ex.P21/A and Ex.PW21/B apart from deposing that a letter was received by him to deposit Rs.2200/- and plot measuring 15 marla would be given to him. This witness deposed that the officials of the company on approaching

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by him agreed with him to return the full payment in the year 1994 on failing to accept the offer of the plot by him apart from depositing that an amount of Rs. 1218/- was returned to him vide receipt Ex.PW21/C and an amount of Rs. 1218/- was returned to his wife vide receipt Ex.PW21/D. This witness also brought letters Ex.PW21/E and Ex.PW21/F of the company written to him and his wife apart from depositing that the remaining amount was not given by the company to him and his wife. The PW22 Hari Parkash examined by the respondent/prosecution stepped in the witness box and deposed an amount of Rs. 155000/- was deposited by him with the company apart from depositing that an amount of Rs. 2300000/- was deposited by his friends with company against the receipts Ex.PW22/A1 to mark PW22/A13 but the same was not returned by the company to him and his friends thereof.

11. Thereafter PW23 HC Jagannath examined by the respondent/prosecution also stepped in the witness box and deposed with regard to memo Ex.PW23/A vide which seven sale deeds were taken in to police possession. Then PW24 Mahinder Dass examined by the respondent/prosecution also stepped in the witness box and being posted as Nib Tehsildar in the area of Nürpur Bedi in the month of August 1992 authenticated all the sale deeds Ex.PW13/A and Ex.PW13/B both dated 13.8.1992 and mutations no. 986 and 987 both dated 28.8.1992 sanctioned on the basis of said sale deeds apart from bringing copy Ex.PW24/A and copy Ex.PW24/B of mutation register on record. Thereafter PW25 Ramji Dass Patwari examined by the respondent/prosecution stepped in the witness box and deposed with regard to mutations no. 998 to 1005 and 1009 to 1012 apart from bringing copies Ex.PW25/1 to Ex.PW25/12 of Padat Patwar on record. Then PW26 Amarjit Singh examined by the respondent/prosecution also stepped in the witness box and deposed that his father died in the year 1996 sold landed property to Vinod Kumar on 13.8.1992 apart from depositing that the land measuring 70 acre at the rate of Rs. 3200/- per acre was sold by his father against total amount of Rs. 224000/- vide two sale deeds and the forest department had carried plantation over the same. Then PW27 Kamal Chand examined by the respondent/prosecution also stepped in the witness box and deposed that Swarn Singh was his father and had sold land measuring 37-1/2 acre at the rate of Rs. 3200/- per acre to Golden Forest India limited against total amount of Rs. 120000/- vide sale

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deeds apart from authenticating copy Ex.PW13/F of the same on record. This witness also deposed that the land measuring 37-1/2 was sold at the rate of Rs.3200/- per acre by Nasib Devi, sister of his father against an amount of Rs.120000/- while the land measuring 320 kanal was sold for a sum of Rs.128000/- apart from authenticating copy Ex.PW13/G of sale deed and copy Ex.PW27/A of power of attorney executed by Nasib Devi in favour of his favour and copy Ex.PW13/C of another power of attorney. This witness deposed that no development was carried by the company over the same. Thereafter PW28 Jaswant Singh examined by the respondent/prosecution also stepped in the witness box and deposed with regard to sale deed Ex.PW13/A vide which the land measuring 37-1/2 was sold to Vinod Kumar at the rate of Rs.3200/- per acre. Then PW29 Ashok Kumar examined by the respondent/prosecution also stepped in the witness box and deposed that he was dealing with accounts of Golden Forest India limited apart from deposing that the copies Ex.PW29/1 to Ex.PW29/16 of the record of said company was given to the police and thereafter this witness was declared as hostile. Then PW30 Kishan Lal examined by the respondent/prosecution stepped in the witness box and when did not support the case of the prosecution was also declared as hostile but while facing cross examination also brought copy Ex.PW30/A to Ex.PW30/19 of vouchers, copies Ex.PW30/20 to Ex.PW30/40 of vouchers, copies Ex.PW30/41 to Ex.PW30/52 of vouchers, copies Ex.PW30/53 to Ex.PW30/290 of the vouchers, copies Ex.PW30/291 to Ex.PW30/307 of the vouchers, copies Ex.PW30/308 to Ex.PW30/310 of the vouchers, copies Ex.PW311 to Ex.PW544 of vouchers, copies Ex.PW30/545 to Ex.PW30/547 of vouchers, copies Ex.PW30/548 to Ex.PW30/556 of vouchers, copy Ex.PW30/557 of voucher, copy Ex.PW30/560 of voucher, copies Ex.PW30/561 to Ex.PW30/564 of vouchers, copies Ex.PW30/565 to Ex.PW30/592 of vouchers, copies Ex.PW30/593 to Ex.PW30/606 of vouchers. Thereafter PW31 Kewal Krishan Jolly examined by the respondent/prosecution stepped in the witness box and firstly deposed that he was employed as correspondent on monthly salary of Rs.3000/- later on increased to Rs.6000/- and thereafter increased to Rs.12000/- apart from deposing that the amount of Rs.77250/- and Rs.45990/- were not received by him vide voucher no.375 corresponding to copy mark G in book Ex.P30 and vide voucher no.376 corresponding to

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copy mark H in book Ex P30 respectively apart from deposing that the amount of Rs.77460/- was also not received by him for development of land. Then PW32 Krishan Lal working as property dealer with Mahinder Kumar examined by the respondent/prosecution also stepped in the witness box and deposed that the amount of Rs.36850/- as commission at the rate of 1 per cent was not received by him vide voucher no.373 dated 31.3.1993 corresponding to copy mark J in copy Ex P30 and the amount of Rs.98150/- as commission at the rate of 1 per cent was not received by him vide voucher no.374 dated 31.3.1993 corresponding to copy mark K in copy Ex P30. Then PW33 Joga Singh examined by the respondent/prosecution also stepped in the witness box and deposed that an amount of Rs.5000/- was invested by him in the month of December 1994, an amount of Rs.5000/- was invested by him in the month of February 1995 with Golden Forest India limited against post dated cheques of Rs.20000/- apart from deposing that the amount of said cheques was not made by the company. Then PW34 Harcharan Singh examined by the respondent/prosecution also stepped in the witness box and deposed that an amount of Rs.5000/- was deposited by him on 29.12.1994 against cheque of Rs.20000/- with Golden Forest India limited apart from deposing that the said amount of the cheque was not returned to him. Then PW35 Manjit Singh running Ghulati Hospital from the year 1993 examined by the respondent/prosecution also stepped in the witness box and deposed that he was given agent code no.500516 as sales executive on 10 per cent commission apart from deposing that the business of Rs.80000/- was given by him to the company and the amount was to be matured by 2022 as per investment shown in statement Ex PW35/A. Then PW36 Kewal Krishan examined by the respondent/prosecution also stepped in the witness box and deposed that an amount of Rs.5000/- was deposited by him through Manjit Singh against receipt Ex PW36/A and cheque Ex PW36/B of Rs.10000/- apart from also deposing that the cheque was dishonoured vide memo Ex PW36/C. Then PW37 AS Bhatia Chief manager of State bank of Patiala examined by the respondent/prosecution also stepped in the witness box and brought copy Ex PW37/A of account no.17264 of AL Sayal on record. Then PW38 Vinod Jetley Chief Manager of State Bank of India Patiala examined by respondent/prosecution also stepped in the witness box and brought copy Ex PW38/A of

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statement of account and copy Ex:PW38/B of account opening form of Promila Sinha, copy Ex:PW38/C of statement of the account and copy Ex:PW38/D of account opening form of AK Sayal. Then PW39 Dharmvir Kohli examined by the respondent/prosecution stepped in the witness box and brought copy Ex:PW39/A of proceeding dated 9.11.1990 to 4.10.1993 and deposed with regard to memo Ex:PW39/B vide which the proceeding books were taken into police possession and thereafter was declared as hostile. Thereafter PW40 Parveen Kumar being posted as Office Assistant in the Golden Forest India limited examined by the respondent/prosecution also stepped in the witness box and deposed with regard to memo Ex:PW40/A vide which the record of the said company was taken in police possession apart from referring copies mark O1 to O8 of guarantee deeds. Then PW41 Daljit Kaur examined by the respondent/prosecution stepped in the witness box and deposed that an amount of Rs.75000/- vide cheque was invested by her in the month of May 1996 through Sarif Masih against post dated cheques of Rs.150000/- apart from deposing that the said cheque of Rs.150000/- as per his advise was deposited with Golden Forest India limited but the amount of the same was not given to her. This witness also brought copy Ex:PW41/A of cheque and copy Ex:PW41/B of disbursement of maturity and copy Ex:PW41/C of receipt on the record. Then PW42 Ashwani Kumar Duggal, Assistant General Manager union Bank of India, examined by the respondent/prosecution also stepped in the witness box and deposed that the amount of Rs.296903/- was balance in account no.610 of Promila Sayal also showing nomination of her daughter Madhu Lika Sayal, an amount of Rs.38131/- was balance in account no.28012 opened with Rs.500/- on 12.5.1994 in the name of RK Sayal showing Neena Sayal as of his nominee, no amount of balance was in account no.1704/- of M/s Golden forest India Limited operated by RK Sayal, Naresh Puri, Promila Sayal, Vimla Sayal, Neena Sayal and AK Sayal apart from bringing account opening form Ex:PW42/A, account opening form Ex:PW42/B, account opening form Ex:PW42/C and copy Ex:PW42/D to Ex:PW42/E of statements of said accounts on record.

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12. Then PW43 SK Arora clerk cum typist, Punjab national Bank examined by the respondent/prosecution also stepped in the witness box and brought copy Ex:PW43/A of statement of account no.6761/- of Neena Sayal

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and copy Ex PW43/D of account no 3622 of Promila Sayal on the record. Then PW 44 Rajni Sablok, Manager, Union Bank of India, examined by the respondent/prosecution stepped in the witness box and deposed with regard to the accounts no 610, no 28012 and no 17004/- already referred by PW42 Ashwan Kumar Duggal. Then PW45 Harbans Singh, Senior Manager, OBC Bank, examined by the respondent/prosecution also stepped in the witness box and brought copies Ex PW45/A to Ex PW45/C of the record of account no 6563 opened on 18.5.1991 in favour of Rajesh Sayal, account no 101260 opened in favour of golden forest company and operated by RK Sayal, Promila Sayal and Naresh Puri and account no 101577 opened in favour of Golden Forest India limited operated by Promila Sayal. Then PW46 Sabitha Sultana examined by the respondent/prosecution also stepped in the witness box and deposed that an amount of Rs. 100000/- through bank draft was invested by her with Golden Forest India limited apart from deposing that the principle amount of Rs. 100000/- was received through court at Chandigarh by her. Then PW47 Daljit Singh, retired DSP, examined by the respondent/prosecution also stepped in the witness box and deposed with regard to memo Ex PW47/A vide which the disclosure statement of Promila Sayal was recorded by him. Then PW48 Sarabjit Kaur examined by the respondent/prosecution also stepped in the witness box and deposed that her husband suffering from paralysis could not come to depose in the court. Thereafter PW48 Balpreet Singh Branch Manager, HDFC, examined by the respondent/prosecution also stepped in the witness box and deposed that the account no 0011000059678/- was jointly opened by AK Sayal and Madhu Jika on 18.12.1999 and the account no 00613320000537 was opened by AK Sayal on 16.12.2000, the account no 00112000003624 was opened by AK Sayal on 5.11.1999 apart from bringing copies Ex P48/A to Ex PW48/C of statement of accounts of the same. Thereafter PW49 Raj Rani also examined by the respondent/prosecution also stepped in the witness box and deposed that an amount of Rs. 25000/- in the shape of FD in her favour and an amount of Rs. 25000/- in the shape of FD in favour of her husband Raj Pal were deposited with Golden Forest India limited but the same were not returned. The respondent/prosecution could not conclude remaining evidence because the remaining evidence was closed by order thereof.

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13. The appellant and co-accused on the other brought copy Ex-DX of judgment dated 30.3.2007 of Criminal case no.65/1 of 2001 pertaining to FIR no.16 of 2.10.1999, under section 406/420/467/468/471/120 B of IPC registered against Rakesh Kant, Pamila Sayal, Amrit Lal, Rajesh Sayal, Neena Sayal and Lehambir Singh, copy Ex-DY of order dated 4.10.2004, copy Ex-DZ of judgment dated 5.8.2010 of police challan no.48 of 2.6.2001 pertaining to FIR no.62 of 23.3.2001 registered against RK Sayal, Neena Sayal and Promila Sayal, copy Ex-D1 of certificate dated 16.12.2004 of Rohit Khullar, ACS, CP no.3738 issued by him after searching the record of M/s Golden Forest India Limited on 16.2.2004, copy Ex-D2 of special resolution dated 27.3.1989, copy Ex-DW1 of order dated 4.3.2012, copy Ex-DW2 of form no.29 of the companies act 1999, copy Ex-DW3 of no due certificate dated 10.4.1991 issued by chairman cum managing director on behalf of board of directors of the Golden Forest India limited. The appellant and the co-accused thereafter closed their defence evidence.

14. The appellant and co-accused after hearing arguments of learned APP for the respondent/state and learned counsel for the appellant and co-accused with regard to the briefly referred rival oral as well as documentary evidence led on the record by the respondent/prosecution and the appellant and co-accused were convicted only under section 420/120-B of IPC vide judgment dated 19.9.2011 and were sentenced there under the said offences vide order dated 19.9.2011 to undergo rigorous imprisonment under section 420 of IPC for two years and to pay fine of Rs.5000/- and on failing to deposit the fine to further undergo rigorous imprisonment for twenty days as well as to undergo rigorous imprisonment under section 120 B of IPC for two years and to pay fine of Rs.5000/- and on failing to pay the fine further undergo rigorous imprisonment for twenty days each and concurrently as stated there in the same ultimately under present appeal.

15. The arguments with regard to the grounds of appeal have been heard and the record has been perused as per law also discussed in *State of Maharashtra Versus Sayad Mohammed Masood & Ann, 2010(1) RCR (Criminal)* vide which it was observed as under:-

Indian Penal code, sections 420 and 406, simple breach of contract or a case involving pure civil dispute would not attract the penal provisions

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contained in the IPC either under sections 406 or section 420, every breach of contract would not give rise to an offence of cheating and only in those case breach of contract would amount to cheating where there was any deception played at the very inception, if the intention to cheat has developed later on the same cannot amount to cheating, relied upon by the learned counsel for the appellant during the course of all the arguments and it is found that the case of the respondent/prosecution is mainly based upon the testimonial version of PW2 Lakhwinder Singh, PW3 Lakhman Beri, PW4 Karam Singh, PW5 Jaspal Singh, PW6 Sadhu Singh, PW7 Niranjani Singh, PW8 Maninderjit Kaur, PW12 Bali Ram, PW13 Amrik Singh, PW14 Richan Sindwani, PW15 Ravinder Saini, PW18 Phuman Singh, PW19 Madhu Bala, PW21 Raj Kumar Kauras, PW22 Hari Parkash, PW33 Joga Singh, PW34 Harcharan Singh, PW35 Manjit Singh, PW36 Kewal Krishan son of Munshi Ram, PW41 Daljit Kaur, PW46 Sabiha Sultana, PW47 Daljit Singh because PW1 Sakta Singh, PW9 Raman Aggarwal, PW10 C Malkiat Singh, PW11 Lady constable Kulwinder Kaur, PW16 Surinder Singh, PW17 Jayanti trehan, PW20 HN Mehra, PW23 HG Jagannath, PW24 Maninder Dass, PW25 Ramji Dass, PW26 Amarjit Singh, PW27 Kamal Chand, PW28 Jaswant Singh, PW29 Ashok Kumar Gupta, PW30 Kishan Lal, PW31 Kewal Krishan Jolly, PW32 Krishan Lal, PW37 AS Bhatia, PW38 Vinod Jetley, PW39 Dharamvir Kohli and PW40 Parveen Kumar, PW42 Ashwani Kumar Duggal, PW43 SK Arora, PW44 Rajni Sablok, PW45 Harbans Singh, PW48 Balpreet Singh and PW49 Raj Rani are formal in nature. The defence version of the appellant is that the appellant was innocent and was not director of the company but was only employee and was not liable for any conduct of the company. The further stand of the appellant is that the managing director was only liable for conduct of the company and the company allotted the land units to all the investors and issued cheques to the investors only as collateral security and the claim of the investors was of civil transaction. The further stand of appellant is that a liquidator was appointed by the Hon'ble Punjab and Haryana High Court and the appellant was falsely implicated in this case. Now, the question arises as to whether the appellant committed the offence punishable under section 120-B of IPC read as (1) whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprison

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ment for life or rigorous imprisonment for a term of two years or upwards, shall where no express provision is made in this code for the punishment of such a conspiracy be punished in the same manner as if he had abetted such offence. (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months or with fine or with both and offence punishable under section 420 of IPC reads as whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person or to make alter or destroy the whole or any part of a valuable security or anything which is signed or sealed and which is capable of being converted into a valuable security shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, under which the appellant and the co accused only were convicted and were sentenced as referred herein above by the learned trial court by acquitting the appellant and co accused from the other offences under which the appellant and co accused were charge sheeted or as to whether the appellant established the said defence of false implication in this case for the purpose of which it has become imperative to go through the testimonial version of the material witnesses examined by the respondent/prosecution against the appellant and co accused and documentary evidence led on record by the appellant and co accused against the evidence of the respondent/prosecution. The brief history of the company is that the Golden Forests India Limited (G.F.I.L) was founded by R.K.Syal since deceased also accused in this case in the year 1987 with simple concept of "Economic Freedom For All". The company started its journey from Chandigarh with an aim to make all Indians a partner in the financial growth of India and was registered with the registrar of companies on the 6th of March 1987 and was given industrial code no.05 by the government of India. The company was permitted under the relevant laws of the day to take public investment and to offer a return on those investments. Moreover every investment in the said company was secured in the shape of land units which were allocated to each and every investor right from day one. In case of any lapse of maturity the investor had the right to get that land unit transferred in his/her name. This system of land units was so revolutionary that not only everybody understood

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it but everybody trusted it. The people from all walks of life, classes, cities and villages in India invested their hard earned money in M/s Golden Forests India Limited. M/s Golden Forests India Limited used money to buy prime properties all over the country. Most of the properties are situated close to big cities of India on National Highways. The location of these properties and the vision of the said accused R.K. Syal since deceased ensured that the money of the public invested in these projects was safe. Many projects such as mineral water plant, tourist resorts, hotels, schools, colleges and satellite townships were also started. The company was market leader of the agro forestry and N.B.F.C. sector of India. In 1998 Securities and Exchange Board of India (S.E.B.I.) filed a writ petition in the Honble Bombay High Court asking for a ban on the working of Golden Forests India Limited because the investments in G.F.I.L. were not safe and the public investment was unsecured. Thereafter during the course of this case the Honble Bombay High Court looked at all the aspects of the working of G.F.I.L. and after looking at the evaluation of Dr. Roshan H. Namavari made as per order of the Honble Bombay High Court refused to ban the working of Golden Forests India Limited rather permitted the company to take fresh investments under all the previous investment schemes and continue to work and pay maturity to its investors. The Honble Bombay High Court also directed the company to get any new investment scheme/s approved from S.E.B.I. before launching them. The Punjab Vigilance Bureau registered six identical cases in different parts of the state of Punjab under Prevention of Corruption Act, 1988 and wrote to major banks of India to seal all the accounts of Golden Forests India Limited. Thereafter all banks across India sealed the bank accounts of G.F.I.L. The cheques given by the company to the investors started to bounce. The Honble Punjab and Haryana High Court also appointed a provisional liquidator for the purpose of sorting out the claims and liabilities of G.F.I.L. on 18/06/03 in case filed by National Investors Forum vs Golden Forests (India) Ltd. In the mean the Honble Bombay High Court also appointed a receiver for the same purpose. Golden Forests India Limited then approached the Honble Supreme Court of India in 2004 for clarity of the matter that two Honble high courts had appointed two different persons for the same matter and purpose. The Honble Supreme Court of India in 2004 stayed all the appointments done by the Honble high

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courts and appointed a new committee for the quick disposal of this matter. The matter even after more than seven years of the committee's appointment is still pending and is now being heard by the Hon'ble Delhi High Court.

16. Moreover, new sections 58AA and 58AAA have been added by the Companies (Second Amendment) Act, 1999 relating to small depositors and to make the offence for default in refund or acceptance of deposits to be cognizable under the Code of Criminal Procedure 1973. These sections have been inserted to bring out certain measures for good corporate governance and for protection of investors. Under section 58AA Companies are required to inform the Company Law Board within 60 days if they fail to make repayment of deposits on maturity to small deposit holders who have invested in a financial year a sum not exceeding Rs. 20,000/- in a company. The Company Law Board on receipt of the information is required to consider these defaults reported by companies and make an order within thirty days which the concerned company is bound to comply with, a company which fails to report or comply with the order of the Company Law Board will be punishable with imprisonment of 3 years and will also be liable to fine of Rs. 500/- per day during which such default continues. Moreover section 621 of the Companies Act, 1956 reads as offences against Act to be cognizable only on complaint by Registrar, shareholder or Government. (1) No court shall take cognizance of any offence against this Act (other than an offence with respect to which proceedings are instituted under section 545), which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar or of a shareholder of the company or of a person authorized by the Central Government in that behalf. Provided that nothing in this sub-section shall apply to a prosecution by a company or any of its officers. (1A) (3) Notwithstanding anything contained in the Code of Criminal Procedure, (5 of 1898) 4 where the complainant under sub-section (1) is the Registrar or a person authorized by the Central Government, the personal attendance of the complainant before the Court trying the offence shall not be necessary unless the Court for reasons to be recorded in writing requires his personal attendance at the trial. (2) Sub-section (1) shall not apply to any action taken by the liquidator of a company in respect of any offence alleged to have been committed in respect of any of the matters included in Part VII

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(sections, whereas the section 624 of the Companies Act 1956 reads as offences to be non-cognizable Notwithstanding anything in the Code of Criminal Procedure, (S of 1898) 2, every offence against this Act shall be deemed to be non-cognizable within the meaning of the said Code. The respondent/prosecution has not challenged the said order dated 7.5.2007 vide which the charge framed under section 13(1) (a) (b) (c) (d) of Prevention of Corruption Act, 1988 was quashed by the Hon'ble Punjab and Haryana High court at Chandigarh, referred above and has also not filed any appeal against the acquittal of the appellant and co-accused under other all offences under which the appellant and co-accused were also charged by the learned trial court. The crux of law referred above coupled with evidence of investors also referred above go to reveal that the dishonest intention and meeting of minds of the appellant and co-accused required to hatch the criminal conspiracy to fulfill all the ingredients of the offence punishable under section 420/120-B of IPC under which the appellant and co-accused were convicted by the learned trial court are not in evidence of the respondent/prosecution against the appellant and co-accused. The conviction of the guilt no doubt of the appellant and co-accused can be slapped on the basis of sole testimonial version of the witness inspiring confidence as per law discussed in *Aniruddh Purnagar Singh Vs. State of Punjab 1947, RCR 367* and the crux of the testimonial version of a hostile witness as per law discussed in *Rameshblal Mohanblal Koli & Ors Vs. State of Gujarat 2010(6) Law Herald (SC) 4263* can not be totally rejected although is in favour of the respondent/prosecution or in favour of the appellant and co-accused but is required to be subjected to close scrutiny. The appellant and co-accused were involved in a case pertaining FIR no 16 of 2.10.1999 under section 406/420/467/468/471/120-B of IPC but were acquitted vide judgment dated 30.3.2007 corresponding to copy Ex DA of Criminal case no 65/1 of 2001 and were also involved in a case pertaining to FIR no 62 of 23.3.2001 but were acquitted vide judgment dated 5.8.2010 of police challan no 48 of 2.6.2001 corresponding to copy Ex D2. The material witnesses are investors of M/s Golden forest (India) Limited and invested some amount with the said concern and as per their own testimonial version also received the receipts and post dated cheques as referred herein above as collateral securities and some of the investors also were allotted plots

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by the company. The evidence of the said material witnesses is deficient to fulfill the ingredients of the offences punishable under section 120-B/420 of IPC under which the appellant and co-accused were convicted and ultimately sentenced by the learned trial court. Sh. Sarup Singh the then DSP Vigilance Bureau Unit Ludhiana in fact drafted a ruga ultimately incorporated in FIR of the present case on receipt of secret information but did not receive any complaint of any investor or any other person allegedly facing fraud allegedly committed by the appellant and co-accused and also concluded investigating by recording statements under section 161 of Cr.PC of some investors and employees of golden forest (India) limited. The prosecution also conducted the case in the same manner. Therefore, the contention of learned counsel for the appellant raised with regard to the grounds of appeal to said extent only is found to be sustainable as discussed herein above.

17. The criminal appeal filed by the appellant against the judgment dated 19.9.2011 as per aforementioned brief discussion of evidence coupled with law, is found to be sustainable and consequently is allowed and the judgment dated 19.9.2011 under appeal and order dated 19.9.2011, are set aside and the appellant is acquitted from the charges under section 420/120B of IPC by directing the appellant to furnish bail bond under section 437-A of Cr.PC for a sum of Rs.50000/- with one surety of alike amount forthwith. The record of the learned lower trial Court along with copy of this judgment be transmitted forth with to the record room (J) Ropar. The record of the file the criminal appeal be consigned to the record room (J) Rup Nagar.



(Ajai Singh)
Addl. Sessions Judge (ETC),
Rup Nagar.

attested to be true copy

Superintendent
District Sessions Judge, Rupnagar
Authorized u/s 76 of the Indian
Evidence Act, 1872

17/9/14

Compared By
Prepared By

17/9/14

No. & Date of Application 4861/15-2014
Name of the Applicant M. S. Kumar
Rank of the Applicant 1st
Name of the Officer 1st
Date of Prop. 17/9/14
Date of Coll. 15-9-2014

Name of the Head Copyist

True Copy

(68)

The Court of Mrs. Paramjit Kaur, Judicial Magistrate
1st. Class Chandigarh

Police Challan No. 48 of 2.8.2001
Computer I.D. No. 36014R0020282001
Date of Decision 5.8.2001

STATE VERSUS 1. R.K. Syal S/o Amar Lal Syal
2. Neena Syal w/o R.K. Syal
(both r/o H. No. 570, Sector 12,
Panchkula)
3. Promila Syal O/o Amar Lal
R/o House No. 573, Sector 12,
Panchkula

FIR No. 62 of 23.3.2001
U/S: 406/420/120-B of IPC
P/S: Mani Majra, Chandigarh

Present: None for the State.
Accused R.K. Syal and Promila Syal in custody
with their counsel.
Personal appearance of accused Neena Syal
is exempted till further orders.

JUDGMENT

The above-named accused have been charged by
the SHO of Police Station Mani Majra, Chandigarh for
facing trial under Sections 406/420/120-B of the Indian
Penal Code.

2. Briefly stated, the present case was registered
on the basis of complaint dated 31.1.2001 made by Raghav
Nath Gautam who reported that he had deposited Rs. 10000/-
on 2.8.1994 for a period of six years to be matured on
3.8.2000 regarding which a cheque of maturity amount of
Rs. 40000/- bearing No. 0038123 55/002 dated 3.8.2000 drawn

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Union Bank of India, SCO No. 802, Manimajra was issued in his favour, but he was not paid the amount despite visiting the company of the accused namely Golden Complex, Golden Complex, SCO No. 832, Manimajra. However, he was issued the receipt for collecting that cheque by the company with promise to issue him fresh cheque, but all in vain.

Accordingly, on the basis of complaint of complainant Ragnu Nath Sharma and various other investors/investors/victims, the present FIR was registered against the above named accused. The accused facing trial were arrested. After recording statements of witnesses, collecting the record from that company and thereafter, on completion of entire investigations against the accused, the challan against the accused was prepared for the offences under Sections 406, 420, 120-B IPC and presented in the court.

On presentation of challan in the court, copies thereof were supplied to the accused facing the trial free of costs as provided under Section 207 of Code of Criminal Procedure.

On finding a prima-facie case the charge against the above named accused was framed under Sections 406/420/120-B of the Indian Penal Code and under Section 5A of the Companies Act, to which they pleaded not guilty and claimed trial.

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No witness was examined by the prosecution
availing several opportunities, therefore
prosecution evidence was closed by order.

Since there was no incriminating evidence
against the accused, so recording of their statements
under Section 313 of Code of Criminal Procedure was
dispensed with.

No witness was examined by the prosecution
despite availing several opportunities, therefore,
prosecution evidence was closed by order. As no evidence
is led against the present accused, therefore, they
cannot be connected with the alleged offence by any
stretch of imagination and no case is made out against
them.

Hence, in view of my discussion above, I am of
the considered opinion that prosecution has miserably
failed to prove the charges against the accused under
Sections 406/420/120-B of IPC. Hence, the accused are
acquitted of the charges levelled against them by giving
the benefit of doubt. They be released, if not required,
in any other case. File be consigned to the record room.

Announced
5-8-2010

Paramjit Kaur
(Paramjit Kaur)
Judicial Magistrate 1st Class,
Chandigarh

True Copy