

## SUPREME COURT OF INDIA

Delhi Development Authority

Vs.

Skipper Construction

I.A. Nos. 41-49, 51-54 and 62 in S.L.P. (C) No. 21000/1993 with I.A. No. 41

(M.Jagannadha Rao and U.C. Banerjee JJ.)

02.08.1999

### ORDER

1. After hearing counsel, we are issuing the following directions:
2. Henceforth all applications in connection with the Skipper group of companies, be presented by the applicant before the learned Amicus Curiae Mr. Joseph Vellapally and in case the latter makes an endorsement that they can be entertained by this Court in this batch of cases, the Registry shall then register such applications and list them along with this matter.
3. If any of the claimants has already filed application(s) and that is lying unregistered with the Registry, without endorsement of the learned Amicus Curiae, such a case may, however, be listed before the Court.

Notice to the Union of India.

4. By the order dated 19-7-1999, we had lanced the Delhi Development Authority (DDA) to place before the Court, by way of an affidavit, as to the steps taken against the DDA officers consequent upon the Report submitted by Hon'ble Mr. Justice O. Chinappa Reddy. Learned Counsel appearing for the DDA submits that some of the officers in DDA were in the service of the Union of India and were on deputation in the DDA from the Government of India and some of them having gone back to their parent office, DDA is not able to pass any orders in respect of such officers. In that view of the matter, we direct that a notice be issued to the Department of Personnel, Government of India to state by way of an affidavit as to the steps taken against the officers of the Union of India who were on deputation to the DDA at the relevant point of time consequent to the Report submitted by Justice Chinappa Reddy Commission. DDA will give its response in regard to the action taken against its own officers within the same time-frame.

I.A. No. 41/96

5. The applicant-petitioner alleges in para 3 of her application that the respondent assured her that she would be given the entire 5th floor in a building to be constructed "Bhai Makhan Singh Building" at Jhandewalan, New Delhi. The office report shows the notice had been sent to the applicant Dr. Dhanwanti Vasani by a Special Messenger which notice has been received back

unserved with the remarks that the applicant has expired. Inasmuch as no further application has been filed by anybody to come on record in her place, this application is rejected.

Submission filed by the Amicus Curiae and decision to appoint another Commission:

6. The learned Amicus Curiae has filed a Note of Submissions mentioning the board issues which now arise in the case. Broadly, the properties, are said to be four in number - one is at Jhandewalan, the other is 22nd Barakhamba Road, the 3rd is Technology Park Ltd. and the 4th is Vaishali. It is not clear whether the Vaishali project is a project of Technology Park Ltd. or of Skippers.

7. It appears that the Lahoti Commission and Chinappa Reddy Commission which disposed of various claims based on certain cut off dates, have not taken up certain claims relating to the above mentioned properties. In this connection, we are of the view that genuine claimants with regard to these properties should be given a further opportunity as a last chance to prefer their claims and we propose to appoint a special Commission for the said purpose so that the money paid by them to any of the Companies or group in question, could be refunded.

Public notice, Question of limitation and interest:

8. We, therefore, propose to consider requesting the learned Amicus Curiae to issue a Public Notice so that all such persons who I had not filed any claims earlier will be able I to file their claims. This is, however, subject to the claims being within time and being proved to be bona fide claims. We shall hear counsel and pass orders on the question of limitation before issuing public notice or appointing a new Commission.

9. It is clarified that the claimants to whom we are proposing to give fresh opportunities can only seek refund of money and not specific performance. In case the money becomes refundable, the question of interest thereon is to be decided by this Court. It is placed on record that in respect of claims already settled by the Lahoti and Chinappa Reddy Commissions, the question of interest is yet to be decided by this Court.

10. It is clarified that the claims with reference to which we propose to give fresh opportunities are not restricted to Jhandewalan but can also be with regard to the other properties mentioned above.

Attachment List:

11. Coming to the question of attachment of properties, in terms of the order dated 8-2-1995 by this Court, be it noted that there is a general order passed on 6th May, 1996 as reported in D.D.A. v. Skipper Constructions: AIR1996SC2005 , which reads as follows:

Accordingly, it is directed that : the attachment of properties belonging to Tejwant Singh, his wife and children, already effected, including the properties mentioned in the application, IA No. 29 of 1996, filed by the DDA shall continue to be in force pending further orders.

12. In addition to that, a further order was passed on 10th May, 1999 as follows:

In the affidavit dated May 6, 1999 filed by Mr. Prabhjot Singh he has given a list of properties held by him, list of properties held by "Skippers", properties held by Tejwant Singh and properties held by Prabhjot Singh (his brother). Mr. R.K. Jain, learned senior counsel has requested attachment of these properties. If any attachment has already been ordered by this Court in respect of these properties, there is no need for fresh attachment but the previous attachment order shall continue to be in force. If the previous attachment order does not cover some of the properties listed, as stated above, in the annexure to the affidavit of Shri Prabhjot Singh dated May, 6,1999 there shall be an attachment of these other properties.

13. It has become necessary to have a complete list of the properties which have come under the two orders of attachment passed by this Court. For this purpose, we request learned Amicus Curiae to consult the other learned Counsel appearing in the case and the parties-in-person so that a comprehensive list of these attached properties can be filed in the Court.

Winding-up proceedings in Delhi High Court:

14. One of the questions raised by the learned Amicus Curiae in his Note of Submissions is that in view of the fact that certain winding up proceedings may be pending in the Company Petitions in High Court of Delhi, it may be necessary to consider whether any orders in respect of the properties which are the subject matter of the winding up proceedings, can be passed by this Court in the present proceedings before us generally or in exercise of this Court's powers under Article 142 of the constitution of India, in the light of the recent judgment of this Court in Supreme Court Bar Association v. Union of India: [1998]2SCR795 .

15. In this context it is submitted by the learned Amicus Curiae that the various companies with regard to which winding up proceedings are pending companies which are only a facade and not real and that it is open to this Court to pierce the veil and pass orders against the Directors of the Company in their individual capacity. Learned Amicus Curiae also submits that such a declaration with regard to all these companies has already been made by this Court in its earlier judgment in D.D.A. v. Skipper Construction: AIR1996SC2005 .

16. For the purpose of clarifying this issue, it will be necessary to ascertain the list of companies in regard to which winding up petitions are pending before the High Court of Delhi. Learned Counsel appearing for Mr. Tejwant Singh and Mr. Prabhjot Singh (who is present personally) and other parties to the case, are also permitted to give a proper list of cases pending in the High Court of Delhi so that appropriate order or orders can be passed ' . in regard to the question as to whether all these companies are covered by the aforesaid judgment of this Court or not.

Notice to the Ghaziabad Development Authority (GDA):

17. In regard to the Technology Park Ltd. and Vaishali Apartments, it has become necessary to give notice to the Ghaziabad Development Authority, Ghaziabad (GDA). Notice be issued to the GDA to put forward its response in regard to its claims or interest concerning the properties owned by Technology Park Ltd.

18. It is however made clear that claims which have been filed before the Lahoti Commission and

Chinappa Reddy Commission but have been rejected on merits (otherwise than on limitation) will not be reconsidered and such claimants will have no right to file fresh applications. The matters which had been directed to be listed on 9th of August, 1999 will now be listed on 23rd of August, 1999. Let these I.As. also come up for hearing on that date.