

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA 4135/MB-IV/2019

IN

CP (IB) No.1712/NCLT/MB-IV/2019

Under Section14(1)(b) &60(5) of the I&B Code,
2016

In the matter of:

Minita D Raja

...Applicant/Resolution Professional

V/s

Mr. Ravindra B Srivastava

...Respondent

In the matter of:

Vidarbha Diagnostic Private Limited

.... Financial Creditor

V/s

Vijay Engineering Enterprises Private Limited

.... Corporate Debtor

Order pronounced on 19.05.2021

Coram:

Mr. Rajesh Sharma
Hon'ble Member (Technical)

Mrs. Suchitra Kanuparthi
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant(s) : Mr. S.R. Jariwala, CA i/b
Ms. Ami Jain, Advocate.

For the Respondent(s) : Mr. Pulkit Sharma a/w
Mr. Pranav Shah & Mr. Abhishek Adke
i/b Mr. Abhishek Adke, Advocates.

ORDER

Per:

Rajesh Sharma, Member (T)

Suchitra Kanuparthi, Member (J)

1. This is an application being IA No. 4135/NCLT/MB-IV/2019 filed by Minita D. Raja, the Applicant/Resolution Professional, under section 14(1)(b) & 60(5) of Insolvency & Bankruptcy Code, 2016 (I&B Code) against Mr. Ravindra B Srivastava, Respondent, for seeking indulgence of this Tribunal to conclude the execution of and registration of the Sale Agreement to be executed by and between the Corporate Debtor and the respondent/purchaser on the receipt of balance consideration of Rs.2,35,700/- (Rupees two lakh thirty-five thousand seven hundred only).
2. The brief submissions on behalf of the Applicant/ Resolution Professional is as under:
 - a) The CIRP was initiated vide order dated 09.08.2019 by this Tribunal against the Corporate Debtor and the Applicant was appointed as Interim Resolution Professional in this matter by the said order.
 - b) The Committee of Creditors (CoC) was constituted in accordance with section 21(1) of the code and a report on the constitution of CoC was filed with this Tribunal on 04.09.2019 which is attached at pp.20-23 as Exhibit 'B' of the IA.
 - c) The first meeting of CoC held on 09.09.20219 in terms of Regulation 17(2) of CIRP Regulation, 2016 and the members of CoC unanimously resolved to appoint the Applicant as RP. The

minutes of the said meeting are attached at pp.24-31 as Exhibit 'C' of the IA.

- d) The Corporate Debtor is the owner of agricultural land situated at Monza, Dahegaon-1, Gat No. 374/2, Tahshil Ralegaon, District Yavatmal, admeasuring about 4 hectares, which was acquired by the Corporate Debtor in July 2008. On 09.10.2019 the Applicant/ Resolution Professional received an email from the Respondent requesting to conclude the registration/conveyance in his favour in terms of the Agreement for Sale of the said agricultural land dated 30.05.2017 entered with the Corporate Debtor. The copy of the said email is attached at p 32 as Exhibit 'D' and the copy of the said Agreement of Sale dated 30.05.2017 is attached at pp.33-44 as Exhibit 'E' of the IA.
- e) The Corporate Debtor due to financial stress decided to enter into the Agreement to Sale for the said agricultural land for a total consideration of Rs.44,00,000/- (Rupees forty-four lakh only). In terms of the said Agreement to Sale, the Respondent was required to pay an amount of Rs.1,25,000/- (Rupees one lakh twenty-five thousand only) upfront and rest of the amount of Rs. 42,75,000/- within a period of 18 months from the date of execution of the said Agreement for Sale.
- f) The Respondent has paid out a total amount of Rs.41,65,000/- (Rupees forty-one lakh sixty-five thousand only) by February 2018 against the total consideration of Rs.44,00,000/- (Rupees forty-four lakh only), leaving a balance of Rs.2,35,000/- (Rupees two lakh thirty-five thousand only) to the insolvency

commencement date, as is recorded in the audited accounts of the Corporate Debtor for the period ended 31.03.2019.

- g) As per the clause 4 of the said Agreement for Sale, the possession was supposed to be with the Respondent on payment of 50% of the sale consideration but the possession of the same still continues to remain with the Corporate Debtor as of date.
 - h) Pending execution and registration of the Sale Deed in respect of the said agricultural land, the Government sent a letter dated 19.03.2019 intimating the compulsory acquisition of the said agricultural land for the purpose of irrigation and other project(s). the copy of the said letter attached at pp.45-49 as Exhibit 'F' of the IA. In view of the moratorium under section 14(1)(b) of the code, the said agricultural land cannot be transferred/disposed of by the Corporate Debtor to Respondent.
 - i) The meeting of CoC was held on 25.11.2019 for the above-mentioned matter and agreed to make an application to this Tribunal to obtain necessary directions in this matter. The copy of minutes of the said meeting of the COC are attached at pp.50-59 as Exhibit 'G' of the IA.
3. The brief submissions on behalf of the Respondent are as follows:
- a) The Corporate Debtor had purchased the agricultural land from one Shri Jagjitsingh Jaswantsingh Oberoi by way of registered Sale Deed dated 19.07.2008 for a consideration of Rs.15,00,000/- (Rupees fifteen lakh only)
 - b) The Corporate Debtor was in the financial difficulty during the year 2017 and the Corporate Debtor decided to dispose the

agricultural land and raise funds to meet the statutory obligations and other expenses/obligations of the Corporate Debtor. The agricultural land was purchased by the Corporate Debtor in 2008 but thereafter the land could not be put to use for the Corporate Debtor's business and as such was excess to the requirements of the Corporate Debtor. The Corporate Debtor was not utilising the said agricultural land for its business.

- c) The Respondent offered to purchase the said Agricultural land in an arms length transaction and an Agreement to Sale dated 30.05.2017 was executed between the Corporate Debtor and the Respondent wherein the parties agreed inter alia the following:

"4 that out of total consideration amount of Rs 44,00,000/ (Forty Four Lakhs only), the purchaser will pay Rs 1,25,000/ to the Vendor and further promise to pay the remaining amount of Rs 42,75,000/ within a period of 18 months from the date of execution of this Agreement.

That the possession of the said Agricultural Land will be delivered to the purchaser on payment of 50% sale consideration amount to vendor.

11. ...Also it is agreed by the Vendor that they shall obtain and procure all required documents at his own cost for the purpose of execution of sale deed.

12. That the vendor agrees to apply for obtain and furnish unto the purchaser all such permissions as may be necessary under the prevalent laws for registration of sale deed.

...

17... that after taking physical possession of land it will be the responsibility of the Purchaser to deal with any party including Government regarding transfer/sell and acquisition of land by any government department, in such case Purchaser will take the consideration of the said land and thereafter purchaser will be liable for any consequences arising regarding the land”.

- d) The market value of the agricultural land at the time of purchase was Rs.20,64,000/- (Rupees twenty lakh sixty-four thousand only) and the Respondent agreed to purchase for Rs.44,00,000/- (Rupees forty-four lakh only), which is at a significant premium and profit to the Corporate Debtor.
- e) The Respondent has paid the consideration of Rs.41,64,000/- (Rupees forty-one lakh sixty-four thousand only) out of Rs.44,00,000/- (Rupees forty four lakh only) by February 2018 through normal banking channels in the following manners:
- i. Rs.1,25,000/- (Rupees one lakh twenty-five thousand only) on 30.05.2017 upon request of the Corporate Debtor which is at p 10 at Exhibit 'A' of the Affidavit in reply of the Respondent and also reflected in the Bank Statement attached at p11 as Exhibit 'B' of the Affidavit in Reply of the Respondent.
 - ii. Rs.1,00,000/- (Rupees one lakh only) on 09.06.2017 towards the payment of service tax dues of Corporate Debtor. The request of Corporate Debtor to the Respondent in this respect is attached at p12 as Exhibit 'C' of the Affidavit in Reply of the Respondent. The

challan for service tax paid by the proprietorship concern of Respondent is attached at p13 as Exhibit 'D' Affidavit in Reply of the Respondent.

- iii. Rs.1,09,300/- (Rupees one lakh nine thousand three hundred only) on 12.06.2017 which is reflected in the Bank Statement of the Corporate Debtor attached at p 15 as Exhibit 'F' of the Affidavit in Reply of the Respondent.
- iv. Rs.50,000/- (Rupees fifty thousand only) on 22.06.2017 upon request of Corporate Debtor which is attached at p 16 as Exhibit 'G' of the Affidavit in reply of Respondent and also reflected in the Bank Statement of the Corporate Debtor attached at p 17 as Exhibit 'F' of the Affidavit in Reply of the Respondent.
- v. Rs.1,30,000/- (Rupees one lakh thirty thousand only) on 10.07.2017 upon request of Corporate Debtor which is attached at p 18 as Exhibit 'I' of the Affidavit in reply of Respondent and also reflected in the Bank Statement of the Corporate Debtor attached at p 18 as Exhibit 'J' of the Affidavit in Reply of the Respondent.
- vi. Rs.1,50,000/- (Rupees one lakh fifty thousand only) on 05.02.2018 upon request of Corporate Debtor which is attached at p 20 as Exhibit 'K' of the Affidavit in reply of Respondent and also reflected in the Bank Statement of the Corporate Debtor attached at p 20 as Exhibit 'L' of the Affidavit in Reply of the Respondent.
- vii. Rs.15,00,000/- (Rupees fifteen lakh only) on 06.02.2018 towards payment of service tax and upon request of

Corporate Debtor which is attached at p 22 as Exhibit 'M' of the Affidavit in reply of Respondent. The Challan for service tax paid by the proprietorship concern of Respondent is attached at p 23 as Exhibit 'N' of the Affidavit in Reply of the Respondent.

viii. Rs.5,00,000/- (Rupees five Lakh only) on 06.02.2018 towards payment of service tax and upon request of Corporate Debtor which is attached at p 24 as Exhibit 'O' of the Affidavit in reply of Respondent. The Challan for service tax paid by the proprietorship concern of Respondent is attached at p 25 as Exhibit 'P' of the Affidavit in Reply of the Respondent.

ix. Rs.15,00,000/- (Rupees fifteen Lakh only) on 15.02.2018 towards payment of service tax and upon request of Corporate Debtor which is attached at p 26 as Exhibit 'Q' of the Affidavit in reply of Respondent. The Challan for service tax paid by the proprietorship concern of Respondent is attached at p 27 as Exhibit 'R' of the Affidavit in Reply of the Respondent.

f) The said agricultural land has been shown as an asset of the Respondent in the financial statement for the F.Y. 2017-18 onwards which is attached at p 28 as Exhibit 'S' of the Affidavit in Reply of the Respondent.

g) The Respondent also relied upon section 53A of the Transfer of Property Act, 1882:

“53A. Part performance.—Where any person contracts to transfer for consideration any immoveable property by writing

*signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty, and the transferee has, in part performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract, and the transferee has performed or is willing to perform his part of the contract, then, notwithstanding that 2[***] where there is an instrument of transfer, that the transfer has not been completed in the manner prescribed therefore by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract: Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof”.*

Findings/Conclusion:

4. The legal issue which arise for consideration is as follows:
 - a) Whether the transfer of land in the name Mr. Ravindralal Biharilal Shrivasta on the basis of unregistered Agreement of Sale dated 30.05. 2017, in the books of accounts of Corporate Debtor company amounts to fraudulent transaction?

- b) Whether the sale consideration of Rs44,00,000/ for 4 hectare of land, as agreed in the Agreement of sale is inadequate or undervalued in view of the Compensation awarded by the Government of Maharashtra Rs.35,39,200 for 1.28 hectares of land out of 4 hectares of land?
- c) Whether the land is sought to be transferred to Related party of Corporate Debtor?
5. Evidently the unregistered Agreement of Sale dated 30.05.2017 executed by the Corporate Debtor in favour of Respondent states that the parties undertook the sale and purchase of Agricultural land situated at Monza, Dahegaon-1, Gat No. 374/2, Tahshil Ralegaon, District Yavatmal, admeasuring about 4 hectare. However, the said land is being acquired by Sub Divisional Officer & Land Acquisition Officer Ralegaon by notice of acquisition of 1.28 hectare of land out of 4 hectare of land on 14/12/2018 with reference to Government decision of Revenue and Forest department No. Ref.03/15/case No.34/A2 dated 12.05.2015, 30.09.2015 and 25.01.2017. The Government further decided on the compensation of the land of about Rs 33,02,400 being gross amount before 10% deduction for class II land. The government also issued draft sale deed to be executed between the parties for Rs35,39,200 being gross amount before 10% deduction for class II land.
6. The terms and conditions of Agreement of Sale are completely onerous and tailor made to suit the purchaser which contemplate that the purchaser would acquire the land/deliver possession of the same upon payment of 50% of the sale consideration demonstrate that the document is a mere sham document. But no

document on record has been shown to state that the possession has been actually delivered to the Respondent.

7. This bench rightly ordered for a due diligence of the entire transaction and sought for a fair value. The Due diligence report clarified the aspect of market value of the said land. The relevant portion of the Due diligence report is extracted below:

Para 10 “The value derived by the independent valuer for compensation to be received for 1.28 acres of land is Rs. 35,39,520/- being the gross amount before 10% deduction for class II land. Annexed hereto and marked as Exhibit D is a copy of the Report of the Independent valuer.”

8. With the given factual matrix, we need to examine the consequences of undervaluation, whether this transaction was executed @Rs44,00,000/ for entire 4 Hectares is with an intention to defraud the creditors in comparison to the quantum of compensation of Rs. 35,39,520/- as awarded by the government for 1.28 hectares of land ? In the present case, the transfer of land was made between son and father which comes under the purview of “Related Party Transaction” and the same also reflected from document of Agreement of Sale dated 30.05.2017 attached at pp.33-44 as Exhibit ‘D’ of the Application. Based on the submissions made by the parties, it not difficult to come at the conclusion that the transaction made between the Corporate Debtor and Respondent is the “Related Party Transaction” and indeed a fraudulent transaction to defraud the creditors of the Corporate Debtor and has no effect of Sec43 of I & B Code, which contemplates two years look back period.

SEVERAL OTHER RELATED ISSUES:

9. The Resolution Professional has filed another IA 1359/2020 based on the transaction audit report summarising several transactions to be preferential under sec.43 of the I & B Code, 2016, which included the present transaction, but unilaterally came to a conclusion that this being a preferential transaction is beyond the two year look back period and hence cannot be termed as preferential. The observations of RP at para 14 of the IA is as follows:

“That it is observed that the CD sold land at Dahegaon Dist. Yavatmal, Maharashtra, to Shri RL Shrivastava at a profit, for an agreed sale price of Rs. 44,00,000.00. However, in the opinion of the Applicant, it is imperative to find out fair market value of the said land at relevant time to examine whether the price of the said land was understated and, if so, said transaction could be regard as undervalued transaction u/s 43 of the Code. Further, the said transaction was committed by agreement dated 30.05.2017, i.e. more than two years prior to commencement of IRP on and from August 2019 and, hence the said transaction could be outside the mischief of section 43 of the Code. However, said transaction could be brought within the aegis of sec 66 if it is found to be fraudulent. Further, if the said transaction was done in the ordinary course of business, it will not be within the realm of section 43. In that view of the matter, the said issue may be permitted to be gone into with the help of professional expert in this regard.”

10. It is also found from the Transaction Audit report of Vijay Engineering Enterprises Private Limited which expressly declares at para 4.1.2 of the report as follows:

4.1.2 Srivastava Construction Company (Credit balance of Rs. 19,98,527.58-)

The above balance consists of following accounts:

Party	Amount	Cr./Dr.	Reference
Shri R.L. Shrivastava	Rs.2,35,700.00	Dr.	i.
Shrivastava Construction	Rs. 87,975.00	Cr.	ii.
SCC (Nagpur)	Rs.15,46,567.58	Cr.	iii.
Srivastava Construction Company (Awarpur)	Rs.5,99,685.00	Cr.	iv.

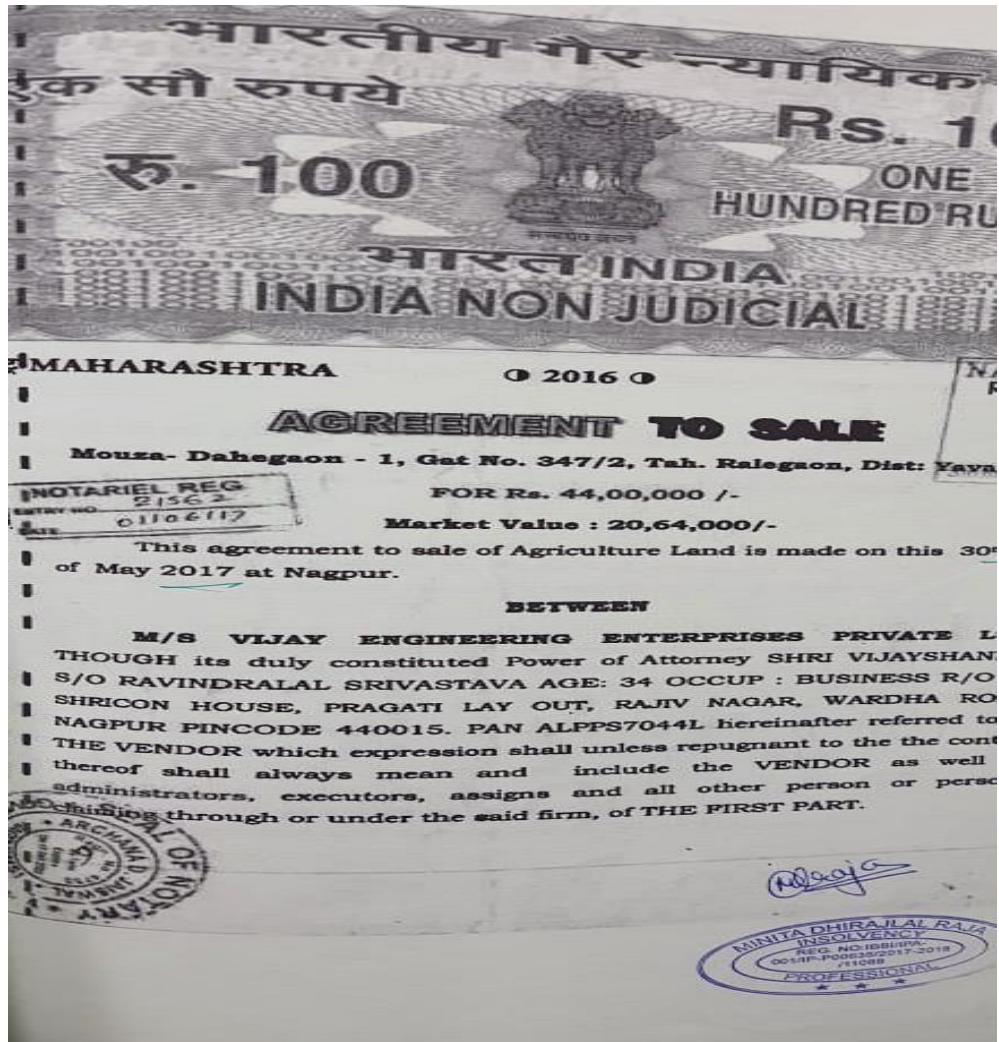
The above mention accounts are all proprietorship concerns of Mr. R.L. Shrivastava who is father of Vijay Shrivastava, Director of VEEPL.

i. Shri R.L. Shrivastava, (Debit Balance of Rs. 2,35,700.00/-)

The corporate debtor agreed to sell a plot of land at Dahegaon Dist. Yavatmal, Maharashtra, to Shri RL Shrivastava at a profit, for an agreed sale price of Rs. 44,00,000.00. An Agreement for sale was executed between the parties on 30th May 2017 which was notarised on 1st June 2017. The agreement was made on a stamp paper of Rs. 100/-. The agreement was neither registered nor due stamp duty was paid against the transaction. Thus this appears to be a transaction on paper without effecting transfer of title to the purchaser.

11. The discussion and summation in the foregoing paragraphs and conclusion of the first issue with regard to creating book entries

basing on unregistered/Notarised Agreement of Sale in the books of Corporate Debtor is fraudulent in nature and the motive in creating book entries showing transfer of fixed asset even before execution of a proper Registered Sale Deed is with an intention to defraud the creditors. The said entries were created in the books by the Corporate debtor to secure the rights of the buyer/Respondent even before execution of registered Sale deed, It can be seen from the records that the Respondent was a Related party being a shareholder holding 9000 shares in the Corporate Debtor Company and that the alleged Agreement of Sale was executed by M/s Vijay Engineering Enterprises Pvt. Ltd through its duly constituted Power of Attorney Shri Vijay Shankar s/o Ravindralal Shrivastava who is none other than the Respondent herein. The first page of the agreement of Sale is reproduced below:



Further the shareholding of the Respondent in Corporate Debtor is as follows:

VINAY ENGINEERING ENTERPRISES PRIVATE LIMITED
Schedules forming the part of Audited Balance Sheet for Financial Year 31.03.2020
Schedule 1
Share capital


Share Capital	2019-20		2018-19	
	Number	Amount	Number	Amount
Authorised				
Equity Shares of 10 each	250,000	2,500,000	250,000	2,500,000
Issued				
Equity Shares of 10 each	216,400	2,164,000	216,400	2,164,000
Subscribed & Paid up				
Equity Shares of 10 each fully paid	216,400	2,164,000	216,400	2,164,000
Total	216,400	2,164,000.00	216,400	2,164,000.00

Reconciliation of the number of shares outstanding at the beginning and at the end of the reporting period

Particulars	2019-20		2018-19	
	Number	Amount	Number	Amount
Shares outstanding at the beginning of the year	216,400	2,164,000	216,400	2,164,000
Shares Issued During The Year	-	-	-	-
Shares bought back during the year	-	-	-	-
Shares outstanding at the end of the year	216,400	2,164,000	216,400	2,164,000

Shares in the company held by each shareholder holding more than 5 percent shares

Name of Shareholder	2019-20		2018-19	
	No. of Shares held	% of Holding	No. of Shares held	% of Holding
Ravindralal B. Srivastava	9,000	4%	9,000	4%
Indrawati Srivastava	6,000	3%	6,000	3%
Vinay Srivastava	58,000	27%	58,000	27%
Purnima Srivastava	61,200	28%	61,200	28%
Vinay Srivastava	56,200	26%	56,200	26%
Sricon Logistics Pvt Ltd	26,000	12%	26,000	12%



We also need to refer to the definition of Related Party as defined under the code. Sec 5 (24) (a) is as follows:

Sec.5(24)

“related party”, in relation to a Corporate Debtor, means-

- (a) A director or partner of the Corporate Debtor
or a relative of director or partner of the Corporate
Debtor;
- (b) ;
- (c) ;;;;

The above facts demonstrate that fraudulent book entries were created with a motive to prefer the Related party and to defraud the creditors. This bench opines that the entire transaction is fraudulent transaction under Sec 66 of the Code.

12. With regard to the second issue with reference to undervaluation, we need to examine the government valuation of Rs. 35,39,200 for 1.28 hectares out of 4 Hectares of land being gross amount before 10% deduction for class II land and compare to the agreed sale consideration of Rs44,00,000/ for entire 4 hectares as per the impugned unregistered Agreement of sale. We are of the opinion that the transaction is clearly denuded with the value and worth and undervalued. The index of market value fixed by the Government is the indicator which shows that this transaction is not only fraudulent to prefer a Related party, but is also an Undervalued transaction. $[(Rs.35,39,200/1.28) \times 4] = Rs.1,10,60,000$, is the fair market value of total 4 hectares land, whereas the said land is purported to be transferred at Rs.44,00,000. Hence, the quantum of undervalued transaction works out to Rs. 75,20,800/-.
13. This bench also notes that the GST due payable by the Corporate Debtor are being shown as paid by the Respondent, the amounts paid towards GST dues cannot be construed/set off as part sale consideration and to claim rights under the unregistered Agreement of Sale. These are essentially independent transactions

and are to be dealt independently. The claim of the Respondent to set off the GST dues payable is rejected.

14. The unregistered Agreement of Sale contemplates forfeiture of monies paid towards sale consideration in case of failure to execute a registered Sale Deed. Hence this bench orders forfeiture of monies paid towards sale consideration. Clause 6 of unregistered Agreement of Sale is reproduced hereunder:

Clause 6 "That the purchaser is bound to execute the execution and Registration of sale deed within the period of 18 months from the date of execution agreement to sale. That, if due to any reason if the purchaser fail to execute the execution and Registration of Sale Deed within the period of 18 months, in that case, the vendor has right to forfeit the entire amount received from the purchaser and no any case is liable to repay the said amount."

15. The Respondent has misrepresented and fraudulently claimed the said land without a registered sale deed in the records of Govt. of Maharashtra and is further claiming compensation in the absence of any valid title. The records of the Govt. of Maharashtra capture his name as the owner is reproduced hereunder:

EXHIBIT - A

उपविभागीय अधिकारी तथा भूसंपादन अधिकारी, राळेगाव
जाहीर नोटिस
जमीन संपादनाच्या तपशिल खालील प्रमाणे

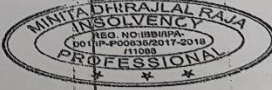
महाराष्ट्र राज्यातील यवतमाळ जिल्ह्यातील, राळेगाव तालुक्यातील यवतमाळ ल.पा. प्रकल्पाच्या धरण रेषेच्या बांधकामासाठी आवश्यक ती जमीन सरळ खरेदीद्वारे संपादन करण्यासाठी या प्रकल्प कार्यकारी अभियंता यवतमाळ प्रकल्प बांधकाम विभाग यवतमाळ यांचे पत्र क्रमांक 5204/रेशा/ तहेगाव/स.ख./अरि-3/2018 दिनांक 29/11/2018 नुसार वि. 14/12/2018 रोजी प्राप्त झाला आहे. मीजा वहेगाव खंड 1 ता. राळेगाव जि. यवतमाळ येथील सरळ खरेदीने संपादन करावयाचे दोन संयुक्त मोजणी अहवालांनुसार 2.76 हे.आर. आहे. संपादनाकरीता होणारा खर्च विदर्भ पाटबंधारे विकास महामंडळ, नागपुर यांचे व्हावे होत आहे. या प्रकल्पाचा लाभ यवतमाळ जिल्ह्यातील राळेगाव तालुक्यास शिबनासाठी होणार आहे.

या वहेगाव ल.पा. प्रकल्पाच्या धरण रेषेच्या बांधकाम/मातीकामा करिता मीजा वहेगाव खंड 1 ता. राळेगाव येथील एकूण 2 रोतक-याची संयुक्त मोजणी प्रमाणे 2.76 हे.आर. जमीन संपादित करणे आवश्यक आहे. सवर जमीन आपसी वाटावाटीने सरळ खरेदीने संपादित करावयाची आहे. त्यामुळे दिनांक 25 जानेवारी 2017 च्या शासन निर्णय-मुचार जाहीर नोटीस प्रसिध्द करण्यात येत आहे.

अ क्र	सुधारकाचे नाव	गट / सव्हे नं	सुधारणा पध्दती	म.न.7/12 प्रमाणे एकुण क्षेत्र हे.आर.	खरेदी करावयाचे क्षेत्र हे.आर.
1	श्री.रविप्रलाल बिहारीलाल श्रीवास्तव	347/2	वर्ग-2	4.00	1.28
2	श्री. राजाभाऊ बापुराव मंडमवार	347/1	वर्ग-1	3.89	1.48
	एकूण			7.89	2.76

सवर जाहीर नोटिस वर संगंधित सुधारकाचे काही आक्षेप असल्यास, नोटिस प्रसिध्दी दिनांकापासुन 15 दिवसांचे आत आपले आक्षेप उपरोक्त कार्यालयात नोंदवावे.

(संक्षिप्त अक्षर)
उपविभागीय अधिकारी तथा
भूसंपादन अधिकारी राळेगाव



Sub Divisional Officer & Land Acquisition Officer Ralegaon
Public Notice
Details of land acquisition as under


Letter No.5204/Resha/Dahegaon/S.kh./Aare-3/2018 dated 29.11.2018 of Executive Engineer Yavatmal Project Works Department Yavatmal for acquisition of land by way of simple sale deed for the purpose of small irrigation project of Mauza Dahegaon, Tehsil Ralegaon, Dist. Yavatmal in the state of Maharashtra has received on 14.12.2018. As per the joint measurement report 2.76 Hectare are land is required at Mouza Dahegaon, Volume -1, Dist Yavatmal. The all expenses are beared by Vidarbha Irrigation Development Corporation, Nagpur. The said project is benefitted for the irrigation of Tehsil Ralegaon, Dist Yavatmal.

It is necessary to acquire 2.76 hectare of land of two agriculturist from Mouza Dahegaon, Volume-1, Tehsil Ralegaon for the small irrigation project at Mouza Dahegaon. The said land is acquired by way of execution of sale deed, as per Govt resolution dated 25.01.2017 a public notice is being published.

Sr.No	Name of Land Owner	Survey No.	Class	Total Area H.R. as per 7/12	Total Area H.R. Reqd
1	Ravindralal Biharlal Srivastava	347/2	Class II	4.00	1.28
2	Rajabhau Bapurao Madamwar	347/1	Class I	3.89	1.48
	Total			7.89	2.76

If the said land owner has any objection regarding the said publication of the Public notice he may convey any objection within a period of fifteen days from the date of publication to above office.

Sd
(SandeepKumar Apar)
Sub-divisional officer
Land acquisition officer
Ralegaon



सरळ खरेदी करीता मुल्यांकन विवरण पत्र

नविन नुसंवारण कस्यवा 2013 मधील कलम 26 ते 30 नुसार संपन्न संस्थेने प्रस्तावित केलेल्या शेवट जमिनीचे सरळ खरेदी करीता प्रती हेक्टरी दर प रकूम देव होणारा संगदीक्ष जमिनीचा मोबदला द्यावा
शासन निर्णय क्र. संकीर्ण-03/15/प्रक-34/अ-2 महसूल व वन विभाग मुंबई, दिनांक 12.5.15 अन्वये

मौजे दाहेगाव ता. राळेगाव जि. यवतमाळ : सरळ खरेदी करून घेणार संपादन संस्था :- कार्याकारी अभियंता यवतमाळ बांधकाम प्रकल्प विभाग, यवतमाळ

मूळारकथे नांव	गट क्र	खरेदीत प्रस्तावित क्षेत्र हेक्टर	दर हे.आक्टर रु.	कलम 26 नुसार बाजार माव रु प्रती हेक्टर (Market Value)	सरळ खरेदी करीता प. हे. दरनुसार संपादीत क्षेत्राचा क्षेत्रासाठी गुणक (Multiplier actor) 4x6	प्रतिशत/हेक्टर क्षेत्रासाठी विचारता घ्यावयाचा गुणक (Multiplier actor) 26(2) नुसार	जमिनीवरील मालमत्ते मुल्यांकन	अधिकृत मुब	फळदा दे मुब	वनक्षेत्रे मुब	रकूम 10+11 +12	रकूम रकमा 9+13	कलम 30(1) नुसार दिनांका रकम 14x1	रकूम देव रकम 14+15	शासन निर्णय क्र. 03/15/प्रक-34/अ-2 महसूल व वन विभाग मुंबई, दि.12.5.15	रकूम देव रकम 16+17	किंमत वर्ग 2 10 टक्के कटव	रकूम देव रकम 15+17
रविंद्रलाल बिहारीलाल श्रीवास्तव	347/2	1.28	0.42	516000	660480	2	1320960	0	0	0	0	1320960	1320960	2641920	660480	3302400	3302400	2972160
राजबहाु बापुराव मंडमवार	347/1	1.48	0.46	516000	763680	2	1527360	0	0	0	0	1527360	1527360	3054720	763680	3818400	3818400	3436560
TOTAL		2.76														7120800	7120800	6408720

उपविभागीय अधिकारी तथा
नुसंवारण अधिकारी राळेगाव

The Valuation statement letter for sale deed

As per section 26 to 30 of amended land acquisition act 2013 per hectare rate of agricultural land prescribed by the acquisition society and total consideration amount and statement of total consideration amount for acquisition of land.

Government Resolution No. Ref.03/15/Case No.34/A2 Revenue & Forest Department Mumbai dated 12.05.15

Mouza Dahegaon Tehsil Rahegaon Dist. Yavatmal Acquisition Society for purchase of land -Executive Engineer Yavatmal Project Works Department Yavatmal

Sr.No.	Name of land owner	Gat No.	Propose Purchase area H.R.	Rate	Market Value	Rate of compensati on for land acquisition	Multi ple factor	Multiplier factor	Valuation of land future				Total amount	Subsidy amount as per act 13(1)	total consideration amount	G & Ref: 03/2015/C.No. 34/A2 Rev & forest Div Mumbai dt: 12.05.2015 total consid amt.	Total consideration	Class II 10% deduction	Total consideration amount
									Construction cost	Fruit Tree	forest tree	total							
1	Ravindra lal Biharilal Srivastava	347/2	1.28	0.42	516000	660480	2	1320960	0	0	0	0	1320960	1320960	2641320	660480	3302400	3302400	2972160
2	Rajabha u Baपुराव Madamw ar	347/1	1.48	0.46	516000	763680	2	1527360	0	0	0	0	1527360	1527360	3054720	763680	3818400	3818400	3436560
			2.76													7120800	7120800	6408720	

5d
Sub Divisional Officer &
Land Acquisition Officer Rahegaon

MINIJA DHIRAJI LAL RAJA
INSOLVENCY
REG. NO. 03/15/1994
03/15/1994/03/03/017-2015
17/158
PROFESSIONAL

16. Therefore, it is declared that the agreement of Sale dated 30.05.2017 is hit by Sec 66 of I & B Code as fraudulent transaction and is an undervalued transaction under sec.45 of the Code. Sec 66 and sec45 are reproduced below:

Sec.66

Fraudulent trading or wrongful trading.

66(1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.

(2) On an application made by a resolution professional during the corporate insolvency resolution process, the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if—

(a) before the insolvency commencement date, such director or partner knew or ought to have known that the

there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and

(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.

3. Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.

Section 45 of the code is as under:

“45. (1) If the liquidator or the resolution professional, as the case may be, on an examination of the transactions of the corporate debtor referred to in sub-section (2) determines that certain transactions were made during the relevant period under section 46, which were undervalued, he shall make an application to the Adjudicating Authority to declare such transactions as void and reverse the effect of such transaction in accordance with this Chapter.

(2) A transaction shall be considered undervalued where the corporate debtor—

(a) makes a gift to a person; or

(b) enters into a transaction with a person which involves the transfer of one or more assets by the corporate debtor for a

consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor, and such transaction has not taken place in the ordinary course of business of the corporate debtor.”

17. The impugned transaction is also hit by Sec 48 & 49 of I & B code. Sec 48 specifically provides that the Adjudicating Authority is empowered under sec.45 (1)(b) of the code, to order for release or discharge (in whole or in part) any security interest granted by the Corporate Debtor. Sec 49 further empowers the Adjudicating Authority to nullify the affect of such transaction which purported to defraud creditors. Sec 48 & 49 are reproduced below:

Sec.48

The order of the Adjudicating Authority under sub-section (1) of section 45 may provide for the following:—

(a) require any property transferred as part of the transaction, to be vested in the corporate debtor.

(b) release or discharge (in whole or in part) any security interest granted by the corporate debtor;

(c) require any person to pay such sums, in respect of benefits received by such person, to the liquidator or the resolution professional as the case may be, as the Adjudicating Authority may direct; or

(d) require the payment of such consideration for the transaction as may be determined by an independent expert.

Sec 49 Transaction defrauding creditors

Where the corporate debtor has entered into an undervalued transaction as referred to in sub-section (2) of section 45 and the Adjudicating Authority is satisfied that such transaction was deliberately entered into by such corporate debtor—

(a) for keeping assets of the corporate debtor beyond the reach of any person who is entitled to make a claim against the corporate debtor; or

(b) in order to adversely affect the interests of such a person in relation to the claim,

the Adjudicating Authority shall make an order—

(i) restoring the position as it existed before such transaction as if the transaction had not been entered into; and

(ii) protecting the interests of persons who are victims of such transactions:

Provided that an order under this section—

(a) shall not affect any interest in property which was acquired from a person other than the corporate debtor

and was acquired in good faith, for value and without notice of the relevant circumstances, or affect any interest deriving from such an interest, and

(b) shall not require a person who received a benefit from the transaction in good faith, for value and without notice of the relevant circumstances to pay any sum unless he was a party to the transaction.

18. In the backdrop of narrated facts, this bench refers to the Judgement of Hon'ble Supreme Court in **Anuj Jain (Interim Resolution Professional for Jaypee Infratech Limited) Vs Axis Bank limited, 2019 SCC Online SC 1775**, wherein it was held at para 29.1 that the Adjudicating authority may look at the intent of such undervalued and fraudulent transaction and conclude basing on the facts and inquire whether such transaction is undervalued or fraudulent in nature. In the instant case it is proved beyond doubt that the Unregistered Agreement of sale is indeed fraudulent to prefer Related party and to defraud the creditors and was grossly undervalued to benefit the Related party.

19. This Adjudicating Authority doth order as follows :-

- a. The unregistered agreement of sale dated 30.05.2017 is declared null and void under Sec 48 & 49 of I & B Code;

- b. The amount of Rs. 1,25,000/- towards advance sale consideration paid by the Respondent No.1 is forfeited;
- c. The impugned transaction is declared to be fraudulent and undervalued transaction;
- d. The impugned transaction is a Related party transaction.

Accordingly, in view of the above observations, IA is dismissed.

Sd/-

Sd/-

Rajesh Sharma
Member (Technical)
19.05.2021

Suchitra Kanuparthi
Member (Judicial)