

**REPORT OF THE COMMITTEE HEADED BY THE CHAIRMAN,
FORMER JUDGE OF MADHYA PRADESH HIGH COURT,
HONBLE SHRI JUSTICE I.S. SHRIVASTAVA.**

No.03/Committee/2023

Indore, dated 21.08.2023

FINAL REPORT

Subject: - Final Report of the Committee.

Reference: - Hon'ble Court's order dated 01.05.2023 passed in **MCRC No.10888/2019 (Jitendra Dhawan v. The State of Madhya Pradesh through SHO Police Station, Banganga, Indore, District Indore MP)** and other connected cases, regarding constitution of the Committee.

May it please Your Lordship,

On the subject and reference mentioned above, vide order dated **01.11.2022** passed by Hon'ble the Supreme Court of India in **Criminal Appeal No.1876/2022 (The State of Madhya Pradesh v. Sonali Ajmera)** ordered in para 11, as under: -

“11. The High Court shall be at liberty to re-constitute the Committee and to appoint a former Judge of High Court as its Chairman, if it deems appropriate to do so.”

Accordingly, in compliance of the above order, Hon'ble High Court of Madhya Pradesh vide order dated **01.05.2023** passed in **MCRC No.10888/2019 (Jitendra Kumar Dhawan v. The State of Madhya Pradesh through SHO, Police Station Banganga, Indore District Indore)** and connected cases, ordered in Paras 6 and 8, as under: -

“(6) For the verification of the aforesaid facts and to further explore the possibility of settlement, a Committee is hereby constituted, with its Chairman being Shri I.S. Shrivastava, a retired Judge of this Court, who has also consented for the same, along with Shri Abhay Badekar, the ADM Indore. The Additional Superintendent of Police of the concerned Police Station/area shall also assist the said committee on such dates as may be fixed by the Committee.

(8) For this purpose a tentative meeting of the Committee shall be first held on 9th of May, 2023 at 12 p.m. in the Conference Hall of the High Court.”



This Committee consisting of Myself (Justice I.S. Shrivastava) and Shri (Dr.) Abhay Bedekar (IAS), ADM, Indore started holding the meetings of the Committee from 9th May, 2023, as ordered by the High Court.

Thereafter, **further one month time** of the Committee has been extended by the Hon'ble Court vide order dated **21.06.2023** passed in **MCRC No.10888/2019 (Jitendra Kumar Dhawan v. The State of Madhya Pradesh through SHO, Police Station Banganga, Indore District Indore)** on the request of the Committee on account of certain reasons mentioned in the extension application No.01/Committee/2023 Indore, dated **20.06.2023**. The matter was directed to be listed before the Hon'ble Court on **09.08.2023**.

Vide order dated 10.07.2023, Member of this Committee, Shri (Dr.) Abhay Bedekar (IAS), ADM, Indore, was ordered to be transferred by the State Government as District Collector, Alirajpur (MP) and on 12.07.2023, he was relieved / discharged; and thereafter, this Committee continued under the chairmanship of myself (Justice I.S. Shrivastava). After relieving of Member of this Committee, the Collector, Indore did not send any name of the Member of this Committee. Hence, this Committee functioned up to **08.08.2023** with only one member, as the Chairman of the Committee.

The Committee started working from **9th May, 2023**, the date fixed by the High Court and so many complainants and colonizers along with their counsel appeared; and the Committee fixed hearing dates for Kalindi Gold City, Phoenix Township and Satellite Hills. Initially, one week time was granted to each colony for submissions of the applications / complaints; and thereafter, different dates were given to the parties for filing of the applications and their replies by the colonizers of the concerned persons.

The number of applications / complaints received by the Committee from 10th May, 2023 to 8th August, 2023 are summarized, as below: -

Serial No.	Name of the Township	Number of complaints	Remark
1.	Kalindi Gold City	63	Case No.253/2023, Compliance Report – statement of complainants recorded for Kalindi Gold
2.	Phoenix Town	129	Case No.251/2023, Compliance Report – statement of complainants recorded for Phoenix Town
3.	Satellite Hills	62	Statement of complainant Smt. Asha Chhazed, who filed Case No.152/2023, was recorded, but due to dispute of civil nature, no compromise took place.
	Total Complaints	254	

As on **08.08.2023**, total **254 complaints / applications [63 complaints against Kalindi Gold City, 129 applications against Pheonix City and 62 cases against the colonizers of Satellite Hills]** were registered before this Committee. In **File / Case No.253/2023**, statement of complainants for Kalindi Gold City are

collected and in **File / Case No.251/2023**, statement of complainants recorded before the Committee for Pheonix Town are collected.

The statement of the complainants with regard to his / her satisfaction has also been recorded before this Committee up to **08.08.2023**, in which colonizers of Phoenix Town, Kalindi Gold City and Satellite Hills have compromised with various complainants of the aforesaid three townships of Indore and have amicably settled the matter with them. Their statements have been recorded and recommended for suitable orders by the Court.

PREVIOUS HISTORY

Vide order dated **12.11.2021** passed by Hon'ble the Supreme Court of India in **Petition (s) for Special Leave to Appeal (Criminal) No.10869/2018 (The State of Madhya Pradesh v. Sonali Ajmera)** observed, as under: -

“Learned Deputy Advocate General appearing for the State of M.P. submits that in compliance of Order of this Court, they did not issue notice to all the concerned but only some of them received the notice and others not, as a result of which, proposal could not be prepared. The above attitude on the part of the State of M.P. reflects the callous way they treat the Orders passed by this Court.

To give a last opportunity, we fix the responsibility on the State of Madhya Pradesh to organize a meeting with all the stakeholders, who are involved in the entire issues, as early as possible and try to arrive at a compromise, settle the disputes and submit a proposal before this Court after 10 days' from today.

We direct the accused persons, viz. Real Estate Developers, Property Dealers, Present and Former Directors of the Real Estate Companies etc. to cooperate with the State Government in settling the matters.

The State would be at liberty to take all necessary actions and interact with those accused persons who are presently in custody.

We make it clear that any negligence on the part of the State Government in implementing the Orders passed by this Court would compel us to seek the presence of the Chief Secretary of the State.”

Thereafter, many complaints were received by the State Government from the aggrieved persons and in compliance of order **12.11.2021**, the Status Report dated **23.11.2021** was filed by the State Government before the Hon'ble Supreme Court of India. A copy of the Status Report dated 23.11.2021 is marked as **ANNEXURE C/1**.



KALINDI GOLD CITY

In compliance of the Supreme Court order, the disputes pertaining to three / 3 Real Estate Projects namely Kalindi Gold City, Phoenix Town and Satellite Hills have been referred by the District Administration to the Hon'ble Supreme Court in which the total complaints received by the District Administration are 255 and the bifurcation is, as follows: -

Serial No.	Name of Project / Colony	No. of complainants
1.	Kalindi Gold City	96
2.	Phoenix Town	88
3.	Satellite Hills	71

As per the status report dated 25.03.2022 filed on behalf of the State Government by the Additional District Magistrate, Indore before the Hon'ble Supreme Court, total 96 (ninety six) cases / complaints of **Kalindi Gold City** were referred to the Hon'ble Supreme Court in which orders for settlement has been passed.

The distribution of 96 cases is that out of these cases, 55 (fifty five) cases were required to be compromised / settled by Shri Happy Dhawan, 35 (thirty five) cases were required to be compromised / settled by Shri Chirag Shah, 4 (four) cases were required to be settled by Shri Nilesh Ajmera and colonizer Shri Vikas Chouksey was directed to settle 2 (two) cases.

The some of the concerned colonizers / Directors of Kalindi Gold City / First Party, who participated in the proceedings before the District Administration and executed consent letter, are, as under: -

1. Shri Happy @ Jitendra Dhawan S/o Shri Suraj Prakash Dhawan
2. Shri Mohammad Sajid Khan, Representative of Shri Chirag Shah
3. Shri Shrey Badjatya, Advocate, Representative of Shri Nilesh Ajmera
4. Shri Vikas Choukse (Broker)
5. Shri Dinesh Soni (Developer)
6. Smt. Anuradha Dhawan W/o Shri Happy Dhawan
7. Shri Lucky Dhawan (brother of Shri Happy Dhawan)

Amongst colonizers of **Kalindi Gold City** to resolve the matter with the complainants, the distribution of **96 cases / complaints** referred to the Hon'ble Supreme Court by the District Administration is, as under: -

Serial No.	Name of the Colonizer	Number of complaints / cases to be solved / resolved	Remark
1.	Shri Happy Dhawan	55	

2.	Shri Chirag Shah	35	
3.	Shri Nilesh Ajmera	04	
4.	Shri Vikas Chouksey	02	
		96	

PROCEEDINGS BEFORE THIS COMMITTEE

As per the aforesaid distribution, Shri Nilesh Ajmera was responsible to resolve the dispute of four complainants and he has discharged his liability and responsibility by resolving the four complaints through recording of their satisfaction statement before this Committee. In this way, he has cooperated with this Committee.

Four complaints / cases were fake and it was decided by the District Collector. These persons did not appear before this Committee.

Two persons, who did not appear before this Committee, were settled by Shri Vikas Chouksey in the Court of ADM, Indore.

55 (fifty five) cases were required to be settled by Shri Happy Dhawan @ Shri Jitendra Dhawan and Shri Chirag Shah, out of which, statement of 32 (thirty two) persons has been recorded before this Committee for their satisfaction.

In remaining **23 (twenty three)** cases, message was sent to the concerned person for recording their statement, but they did not appear before this Committee.

In **7 (seven)** cases, which are to be resolved by Shri Chirag Shah and Shri Happy Dhawan, could not be compromised and settled, as they are the persons who purchased the concerning diaries in second and / or third sale / purchase and they are not the original persons / applicants, who booked the plot. They did not appear before this Committee.

In **3 (three)** cases i.e. Cases No.6, 13 and 17 of 2023 filed before this Committee and **3 (three)** cases in the list of 96 persons submitted before the Apex Court, in which the complainants are Shri Uday Songara (at Item No.70), Smt. Anita Songara (at Item No.71) and Smt. Ankita Jain (at Item No.72), colonizer agreed to make the payment to the complainants, which was received by them towards purchase of plots. However, colonizer could not return / pay the amount to these six persons / complainants, due to their absence. Their Demand Drafts (DD) were ready, but their term expired. They have to be paid as per the orders of the Court.

In **2 (two)** cases i.e. Case No.09/2023 and Case No.50/2023, payment through Demand Draft (DD) / Real Time Gross Settlement (RTGS) were made by Shri Happy Dhawan to the applicant / complainants to resolve the dispute, however, the documents are yet to be received by colonizer.

In **07 (seven)** cases i.e. Case No.3, 7, 16, 19, 27, 33 and 121 of 2023, no settlement and / or compromise could be possible as per orders of this Committee itself, as the cases are to be resolved by Civil Court.

In **1 (one)** case i.e. Case / Complaint No.243/2023 filed on 21.06.2023 by Smt. Shreya Upasani W/o Shri Satyendra Upasani, as per order dated 27.06.2023, Shri

Himanshu Joshi, advocate agreed to refund the amount of Rs.4,30,000/- (rupees four lakhs thirty thousand only) with interest at the rate of 12% per annum which is to be paid by colonizers either Shri Chirag Shah, but payment was not made. Hence, case ordered to be put up before the Court.

In following **4 (four)** complaints no settlement or compromise possible: -

- (1) Shri Anurag Agrawal S/o Shri Dharmendra Agrawal (Case No.188/2023) settlement possible, please see order dated 10.07.2023. Colonizer is ready to compromise, but the complainant is not ready to accept the amount.
- (2) In case of Smt. Sweety W/o Shri Anil Jalali (Case No.20/2023), the Colonizer is ready to compromise, but the complainant is not ready to accept the amount.
- (3) In case of Shri Abhijeet Bagdare S/o Shri Dilip Bagdare (Case No.49/2023), Colonizer is ready to return the amount of Rs.11,00,000/- with interest to complainant, but the complainant is not ready to accept the amount.
- (4) In case of Shri Gopal Lal Agrawal S/o Shri Modi Lal Agrawal (Case No.46/2023, Colonizer is ready to compromise the matter with the complainant, but he is not ready to accept the amount.

It is submitted that colonizer Shri Happy Dhawan and / or Shri Chirag Shah are ready to compromise / settle the matter with the aforesaid four complainants, but they are not ready to settle the dispute.

In Case No.26/2023 filed by Shri Gokuldas Sundrani S/o Shri Suganamal Sundrani, the application is not filed by the original person (Shri D. Agrawal) and the applicant failed to submit the original receipts of his name. Hence, case could not be settled or compromised.

In Case No.23/2023 filed by Shri Sandeep Gupta S/o Shri (Dr.) R.M. Gupta, it is submitted on 08.08.2023 that colonizer Shri Happy Dhawan and complainant are ready to settle the matter within a period of one month. Hence, the matter submitted for suitable orders by the Court.

In Case No.28/2023 filed by Smt. Shobha Mittal W/o Shri Pradeep Kumar Mittal and Case No.29/2023 filed by Smt. Shushma Gupta W/o Shri Kamlesh Kumar Gupta, it is submitted that original documents are not shown to the colonizer, therefore, the same cannot be settled before the Committee.

Affidavit sworn in by Smt. Anuradha Dhawan W/o Shri Happy Dhawan dated 21.11.2021, Shri Sazid Khan Representative of Shri Chirag Shah dated 21.11.2021 were submitted to the Collector, Indore.



Before this Committee **total 63 complaints** have filed against **Kalindi Gold City** by various aggrieved persons / complainants; out of which, 36 (thirty six) complainants are also included in the old list of 96 cases filed in the Supreme Court; and 27 (twenty seven) new complaints have been filed.

In 8 (eight) cases / complaints (Case No.14/2023 of complainant Smt. Heeramani Jain and Cases No.38 to 45 except Case No.44 of 2023 filed by Shri Gaurav K. Verma, Advocate), which are related to diary and in some of the cases (Case No.14/2023, Cases No.40/2023 and Case No.45/2023), opinion / report of Handwriting Expert on the signatures of Shri Happy Dhawan was also obtained and confirmed by Handwriting Expert and therefore, orders have been passed by this Committee to put up the cases before the Hon'ble Court for suitable orders.

Four cases (Cases No.21, 49, 218 and 242 of 2023) are to be solved by Shri Chirag Shah, which will be resolved amicably within one month, as submitted by his counsel.

Two cases (Case No.32/2023 and Case No.240/2023) sale deed has already been executed. Copy of sale deed is to be produced.

Three cases (Case No.37, 189 and 190 of 2023) are to be solved by Shri Happy Dhawan, but there is no possibility of compromise.

In four cases i.e. Case No.30, 34, 188 and 244 of 2023, the possession has been given to the complainants.

SATELLITE HILLS

PREVIOUS HISTORY

The concerned Colonizers / Directors of Satellite Hills / First Party, who participated in the proceedings before the District Administration and executed consent letter, are, as under: -

1. Shri Nitesh Chugh S/o Shri Mohan Chugh (Former Director M/s. Avalanche Reality Private Limited)
2. Shri Mohan S/o Shri Tarachand Chugh
3. Shri Kailash Chandra Garg S/o Shri Babulal Garg (Present Director of M/s. Avalanche Reality Private Limited)
4. Shri Arjundas Hotwani (Director, M/s. Ambika Solvex Limited)
5. Smt. Premlata Devi Garg W/o Shri Suresh Chandra Garg (Director, M/s. Avalanche Reality Private Limited)
6. Shri Bhagwandas S/o Shri Arjundas Hotwani (Present Director of M/s. Avalanche Reality Private Limited)

7. Shri Sanjay S/o Shri Suresh Ji Lunawat
8. Shri Ritesh Ajmera S/o Shri Pawan Ajmera
9. Shri Mahesh Wadhwani
10. Shri Prakash Hotwani
11. Smt. Yogita Ajmera W/o Shri Ritesh @ Champu Ajmera

As per the status report dated 25.03.2022 filed on behalf of the State Government by the Additional District Magistrate, Indore before the Hon'ble Supreme Court, total **71 (seventy one)** cases / complaints of **Satellite Hills** were referred to the Hon'ble Supreme Court in which orders for settlement has been passed.

Out of **seventy one cases**, the possession of the plot was given in **60 (sixty cases)**, while in **52 (fifty two) cases**, the possession was handed over to the complainants by the District Administration and **8 (eight)** complainants / applicants were given the possession of plot by orders of this Committee.

In **15 (fifteen)** cases, the payment of the sale consideration received by the colonizers of Satellite Hills, is to be made by Shri Nitesh Chugh and Shri Kailash Chandra Garg, but these cases are not settled, because they disputed their liability.

New 15 (fifteen) cases have been filed before the Committee in which the complainants have the original receipts and payment not was made to them by Shri Nitesh Chugh and Shri Kailash Chandra Garg, therefore, these cases (Case No. 2023) are not settled, because they disputed their liability.

(Total 33 cases which includes old – which includes complaints filed before the District Administration and also the Committee and new cases – which includes complaints filed before the Committee: -

Case No.215/2023, Case No.214/2023, Case No.169/2023, Case No.199/2023, Case No.171/2023, Case No.206/2023, Case No.170/2023, Case No.193/2023, Case No.141/2023, Case No.217/2023, Case No.144/2023, Case No.194/2023, Case No.208/2023, Case No.191/2023, Case No.159/2023, Case No.152/2023, Case No.160/2023, Case No.197/2023, Case No.195/2023, Case No.161/2023, Case No.146/2023, Case No.152/2023, Case No.150/2023, Case No.198/2023, Case No.147/2023, Case No.151/2023, Case No.200/2023, Case No.205/2023, Case No.203/2023, Case No.201/2023, Case No.187/2023, Case No.191/2023 and Case No.192/2023)

The total number of cases / complaints filed directly against the township **Satellite Hills** by various complainants before this Committee is **62 (sixty two)**, but all

the complaints remained for settlement due to non-cooperation of Objector Shri Kailash Chandra Garg as well as Chandaprabhu Homes Private Limited.

SUBMISSION

I In **12** Cases (Case No.143, 145, 146, 147, 150, 151, 152, 156, 157, 160, 162 and 197 of 2023) amendment / correction in the sale deed is to be done by Shri Kailash Chandra Garg by executing proper deed. However, Shri Kailash Chandra Garg has not shown any interest and disputed his responsibility and liability.

II A list of 22 cases was submitted before the Hon'ble Supreme Court regarding payment in lieu of receipts to the complainants and the liability was fastened on Shri Mohan Chugh and Shri KC Garg; and out of 22 cases, **five cases** in which the complainants (who are having the receipts) have filed complaints before the Committee. These are Cases No.169, 170, 171, 187 and 199 of 2023. It is submitted that in **Four cases**, i.e. Case No.200, 201, 203 and 205 of 2023, there is a dispute of civil nature.

III It is submitted that in **three cases** i.e. Cases No.103, 161 and 220 of 2023, the complainants are having the receipts; and it is further submitted that the payment has already been made to the complainants. Please See order dated 15.04.2022 passed by the ADM Indore and copy of which has already been filed in Case No.220/2023.

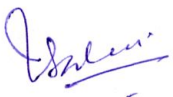
IV It is submitted that in **four cases** i.e. Cases No.153, 154, 155 and 229 of 2023, sale deed was executed by Shri Amit Tongiya and the same has been declared as void *ab initio* by the District Collector; and FIR No.0094 dated 08.02.2022 has also been registered at Police Station Tejaji Nagar, Indore.

V In **two cases** i.e. Cases No.191 and 192 of 2023, sale deed has already been executed, but the complainant has not paid the full consideration to the colonizer. Therefore, possession could not be delivered due to non-payment of remaining part payment.

VII In **Nine cases** i.e. Cases No.144, 148, 159, 195, 196, 198, 208, 247 and 248 of 2023, plots are available and sale deed has been executed. The complainants can take possession from the colonizer. In these nine cases, the possession is to be given by Shri KC Garg, but he has denied his liability and disputed his responsibility.

VIII In **seven cases** i.e. Cases No.141, 193, 215, 217, 232, 234 and 236 of 2023 filed before this Committee are the cases in the category of New Receipts and the payment in lieu of receipts are to be made to the complainants by Shri KC Garg and Shri Mohan Chugh, but he has denied and disputed his responsibility.

Therefore, in Satellite Hills, no case has been solved.



PHOENIX TOWN

PREVIOUS HISTORY

The concerned colonizers / Directors of Phoenix Town / M/s. Phoenix Devcons Private Limited, who participated in the proceedings before the District Administration and executed settlement letter, are, as under: -

1. Shri Ritesh @ Champu Ajmerea S/o Shri Pawan Ajmera
2. Smt. Yogita Ajmera W/o Shri Ritesh Ajmera
3. Shri Mohamman Sajid Khan, Representative of Shri Chirag Shah
4. Shri Pradeep Agrawal (Director of Om Shree Developers)
5. Shri Rajat Bohra
6. Shri Manish Panwar

As per the status report dated 25.03.2022 filed on behalf of the State Government by the Additional District Magistrate, Indore before the Hon'ble Supreme Court, total **88 (eighty eight)** cases / complaints of **S Phoenix Town** were referred to the Hon'ble Supreme Court in which orders for settlement has been passed.

The bifurcation of complaints amongst the colonizers of Phoenix Town is total 175 including of Committee and SIT, as under: -

Serial No.	Name of colonizer (s) on which the liability / responsibility is fastened	Liability	Remark
1.	Shri Ritesh Ajmera		58 complainants settled by statement
1.	Shri Chirag Shah	25	
2.	Shri Pradeep Agrawal	23	
3.	Shri Ramesh Chandra Mittal	31	
4.	Official Liquidator	22	
	Total	175	

SUBMISSIONS

PHOENIX TOWN

Shri Arjun Pathak, learned counsel for and on behalf of Colonizer Shri Ritesh Ajmera has provided further information in respect of Phoenix Town, as under: -

I In the following **Thirty (31)** Cases: -

[Case No.52/2023, Case No.53/2023, Case No.61/2023, Case No.88/2023, Case No.89/2023, Case No.90/2023, Case No.92/2023, Case No.95/2023, Case No.99/2023, Case No.104/2023, Case No.113/2023, Case No.127/2023, Case No.128/2023, Case No.132/2023, Case No.136/2023, Case No.139/2023, Case No.167/2023, Case No.172/2023, Case No.173/2023, Case No.174/2023, Case

No.175/2023, Case No.176/2023, Case No.177/2023, Case No.178/2023, Case No.179/2023, Case No.180/2023, Case No.181/2023, Case No.182/2023, Case No.183/2023, Case No.184/2023 & Case No.212/2023],

there is a liability of Shri Ramesh Chandra Mittal to compromise the dispute with the complainants. However, Case No.61/2023 in which it has been observed by the Committee, that there is no possibility of compromise or settlement between the parties and the issue of liability of Shri Ramesh Chandra Mittal is to be decided by the proper Court.

II As per order dated **02.08.2023** passed in main lead case being **Case No.68/2023** filed by complainant **Punit Demla**, the Committee has observed that on account of objection by Shri Pradeep Agrawal, there is no possibility of any compromise or settlement between the parties and the case is directed to be put up before the Hon'ble Court **for suitable orders**; and the order will cover the following total sixteen cases: -

[Case No.59/2023, Case No.60/2023, Case No.67/2023, Case No.68/2023, Case No.69/2023, Case No.72/2023, Case No.80/2023, Case No.82/2023, Case No.91/2023, Case No.100/2023, Case No.101/2023, Case No.106/2023, Case No.129/2023, Case No.135/2023, Case No.138/2023 and Case No.210/2023]

Including two more cases i.e. **Case No.230 and 235 of 2023** with regard to the liability of Shri Pradeep Agrawal.

III With regard to liability of the Official Liquidator (OL) to execute sale deed in favour of the complainants, Shri Ritesh Ajmera has submitted that two more cases (**Case No.116/2023 and 245/2023**) are of liability of OL. However, he has pointed out that vide detailed order dated **02.08.2023** passed in main lead case being **Case No.57/2023** filed by complainant **Shri Pankaj Patel S/o Shri Ramesh Patel**, whereby the Committee has observed that there is no possibility of any compromise or settlement between the parties; and following cases (**Case No.51/2023, Case No.70/2023, Case No.71/2023, Case No.73/2023, Case No.83/2023, Case No.87/2023, Case No.93/2023, Case No.94/2023, Case No.98/2023, Case No.112/2023, Case No.123/2023, Case No.125/2023, Case No.126/2023, Case No.131/2023 and Case No.140**) are also covered by Case No.57/2023, however, Case No.131/2023 has been filed by Phoenix Social Welfare Society, Kailod Hala, Indore (MP) through Co-Secretary, Shri Praveen Sharma.

IV It has been pointed out by Shri Ritesh Ajmera that Shri Chirag Shah is responsible and liable to settle 23 claimants as per the liability fastened on him by the District Administration, however, the claims of claimants in the following sixteen cases i.e. Case No.58/2023, Case No.59/2023, Case No.60/2023, Case No.61/2023, Case No.69/2023, Case No.72/2023, Case No.80/2023, Case No.82/2023, Case No.105/2023, Case No.106/2023, Case No.119/2023, Case

No.128/2023, Case No.211/2023, Case No.212/2023, Case No.227/2023 and Case No.231/2023 only have been filed before this Committee.

V It has been clarified by Shri Ritesh Ajmera that in the following **eight cases** i.e. Case No.63/2023, Case No.64/2023, Case No.65/2023, Case No.66/2023, Case No.76/2023, Case No.85/2023, Case No.97/2023 and Case No.165/2023 incomplete documents and / or fake receipts have been filed by the complainants. Therefore, these eight cases may be dismissed.

VI It is also pointed out that in **two cases** (Case No.56/2023 and Case No.117/2023) there is a dispute of civil nature. Hence, there is no possibility of any settlement and / or compromise between the parties in these two cases.

VII It has also been brought to the knowledge of this Committee that in **eight cases** i.e. Cases No.74 to 81 of 2023 (order dated 04.08.2023 passed in Case No.77/2023) (plots are available), this Committee has ordered for the measurement of Survey numbers 291/1, 291/2 and 248/1/1 situated at Village Kailod Hala, Tehsil Juni Indore, District Indore (MP) on which Smt. Parvar Kaur claims to have the possession over the said survey numbers.

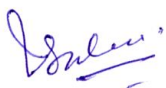
PHOENIX TOWN

Shri Himanshu Joshi, learned counsel for and on behalf of Colonizer Shri Chirag Shah has provided further information in respect of **PHOENIX TOWN**, as under: -

I Shri Chirag Shah was Director of M/s. Phoenix Devcons Private Limited (herein after referred to as the Company) till 2010.

II A complaint was filed by Revenue Inspector Shri Manish Chaturvedi on 14.02.2022 related to the said Company stated that some 26 piece of lands of *Bhukhand* Numbers 1535, 1536, 1279, 1184, 1180, 1181, 1183, 1284, 1285, 1283, 1066, 1182, 1372, 1373, 1374, 1532, 1280, 1371, 1375, 1378, 1379, 1376, 1377, 1380 and 1281 of Village Kailod Hala, Tehsil and District Indore are wrongly sold through registered sale deed by Shri Gajraj Singh through Shri Chirag Shah in favour of Shri Deepak Agrawal. And FIR has been lodged under Sections 467, 468, 470, 471, 120-B and 34 of IPC. After investigation, prosecution submitted its challan on 28.04.2023.

In this challan the prosecution has clearly stated that no evidence has come on record against Shri Chirag Shah during the investigation; and name of Shri Chirag Shah has been deleted from the said FIR, which shows that Shri Chirag Shah has no role in the said company. Copy of FIR and challan is also submitted in all the matters of Phoenix Town.



It has been submitted on behalf of Colonizer Shri Chirag Shah that on the report of Revenue Inspector Shri Manish Chaturvedi on 14.02.2022 First Information Report (FIR) No.0225/2022 was registered against Shri Chirag Shah including five persons (Shri Ghanshyam Das S/o Shri Badri Prasad Agrawal, Shri Deepak S/o Shri Ramavtar Agrawal, Shri Gajraj Singh S/o Shri Roop Singh, Shri Ankul S/o Shri Satya Prakash Agrawal for and on behalf of (तर्फ) M/s. Angle Infratech Private Limited and Ms. Swati D/o Deepak Agrawal) at Police Station, Lasudiya, District Indore; and in this case final report was submitted and it was found that Shri Chirag Shah has no role in the alleged offence.

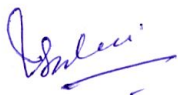
Considering the above facts, this Committee is of the opinion that by this final report, the discharge of Shri Chirag Shah from the civil liability cannot be presumed. He will be responsible for any civil liability which may be decided by the Court.

Twenty three / 23 cases are to be settled by Shri Chirag Shah. In twenty four / 24 cases, possession of plot has been delivered to the complainants through the Collector, Indore, but still sale deed is to be executed by **Shri Pradeep Agrawal** for which he is not cooperating and denied his responsibility and liability.

Thirty one / 31 cases are filed before this Committee in which settlement is to be made by **Shri Ramesh Chandra Mittal (Director of the Company from 2008 to 2009)**, but due to his non-cooperation and denial of responsibility and liability, these cases could not be settled.

OFFICIAL LIQUIDATOR

According to the status report submitted by the District Administration before the Hon'ble Supreme Court, **twenty two / 22 cases** were to be settled by executing sale deed by amendment in the sale deed by the **Official Liquidator (OL)**, but the **OL**, after repeated efforts of the clients and also letters sent by this Committee, has not taken any action and has always shown his inactive attitude. Shri Arjun Pathak, advocate along with client Shri Ritesh Ajmera physically / personally went to the Office of the OL to give the documents with a request to execute two sale deeds, but the OL, after observing all the documents, did not receive them and demanded again statements of accounts etc., while they have all been submitted by colonizer Shri Ritesh Ajmera in the Office of OL. Shri Ritesh Ajmera also submitted all the papers received from the Income Tax Department about assessment of his income, but the OL is again demanding the Income Tax Return and also the statement of expenditure of whole time, which is practically impossible. In fact, if the statement of expenditure is not given by Shri Ritesh Ajmera, then it will be calculated as his income for which the Income Tax Authorities have realized the income tax from him. Therefore, there is no use of demanding the expenditure statement. This Committee also



handed over some documents of Shri Ritesh Ajmera to the OL on **16.06.2023** in **Case No.98/2023** in presence of Members of the Committee, but he did not take any action. It seems that the OL is determined not to cooperate in any way in execution of his duty regarding M/s. Phoenix Devcons Private Limited, in liquidation. The order of appointment of the OL passed was in 2016, but it is very sorry, that after the passing of seven years, he has failed to receive the records and / or collect the records and still, he is demanding the record of statement while everything has been submitted to him, as stated by Shri Ritesh Ajmera. Therefore, the cases entrusted to the OL could not be resolved.

In **twelve / 12 cases**, the documents are fake as they are not sufficient documents.

Four / 4 cases pertains to civil nature.

In **fifty eight / 58 cases**, satisfaction statement of the aggrieved persons has been recorded, in light of compliance report filed by the District Administration in the Hon'ble Supreme Court Shri Ritesh Ajmera has taken over the liabilities on behalf of Ajmera family by compromising with the applicant / complainants, whose satisfaction statement has been recorded before this Committee.

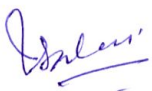
As per the list referred by the District Administration to the Hon'ble Supreme Court, a list of 88 cases of Phoenix Town was mentioned.

According to Shri Ritesh Ajmera, statement of the complainants either in the list of District Administration or in the List of this Committee, has been recorded with regard to his / her satisfaction and the total number of such complainants is **58 (fifty eight)**. In 31 (thirty one) case, it is submitted that there is a liability of Shri Ramesh Chandra Mittal, in 23 (twenty three) case there is a liability of Shri Chirag Shah, in 25 (twenty five) cases, liability of Shri Pradeep Agrawal. 12 (twelve) cases incomplete documents have been filed before this Committee; and / or 12 cases could not be settled as the parties are not having the original documents or their documents are not admitted to the other side, being fake. Four cases could not be resolved due to dispute of civil nature. In 22 (twenty two) cases, sale deed is required to be executed for amendment / correction by the OL, but he did nothing.

This Committee received total 254 complaints / applications.

LEGAL POINTS TO BE CONSIDERED

The above all objectors failed to discharge their liability and responsibility as promised by them to the District Administration and relying on their admissions, the



District Administration reported their consent to the Hon'ble Supreme Court and the Hon'ble Supreme Court ordered for their compliance by the District Administration. All these proceedings were binding on the parties having the presumption of estoppel, but the legal points raised by them to be considered by the Court. The effect of relinquishment of partnership is also to be considered.

Whether Shri Kailash Chandra Garg was having any authority to mortgage the plots of others, which were sold prior to mortgage in the Bank?

SUGGESTION FOR THE DISCHARGE OF OFFICIAL LIQUIDATOR

It is clear that the Official Liquidator has failed to solve the problem of the applicants / complainants. While to solve the problems of the stake holders / home buyers of Phoenix Township, it seems necessary that Phoenix Township should be freed from the clutches of the Official Liquidator (OL).

It has been argued that the OL was appointed due to non-payment of nearabout one crore rupees of one company i.e. M/s. Phoenix Devcons Private Limited and for this default, the appointment of OL was ordered by the Hon'ble Madhya Pradesh High Court, but the dues of that company has been cleared and in last seven years, when the OL was appointed, no progress has been done by the OL and all the stake holders / home buyers are moving here and there for the solution of their problems.

To facilitate all the stakeholders / home buyers, so that they can avail the fruits of their investments for purchasing a plot in their life time and as early as possible, it is necessary that the appointment of OL should be cancelled and the management and working of M/s. Phoenix Devcons Private Limited should be returned to the original Directors of the company under liquidation and they be directed to resolve all the disputes within a fixed time period, as ordered by the Hon'ble Supreme Court.

By this method, the problems of all the stakeholders / home buyers may be resolved as early as possible.

SUMMARY OF THE PROCEEDINGS

This Committee tried at the level best to find out the way for settlement or compromise in between the parties. Nearabout 137 claims / disputes between the parties and the colonizers have been settled.

In so many complaints, the complainants filed their claim / complaint, but did not turn up later on to get their problem resolved by the colonizers. One of the reasons which we can realise is that in so many complaints fake diaries have been filed for which when the colonizers demanded the initial booking proof, they failed



to provide it. The normal procedure of booking of the plot in any colony of the colonizer is that the colonizers were issuing allotment letter of their colony with plot number and the amount of payment and / or rate of plot per sq. ft. on the basis of the booking. Some of the colonizers issue a particular type of diary, but so many other persons got their vested interest in issuing duplicate or fake diaries different from the originals issued by the colonizers on which, they received the payment from the home buyers and embezzled that amount which was not deposited with the colonizers. When the colonizer demanded allotment letters or other type of receipts issued by them from the home buyers, they could not produce it. Hence, the colonizers denied their liability. Such type of applicants did not appear for further discussion proceedings. Hence, their cases could not be settled or compromised. Hence, the proceedings are not recorded due to their non-appearance.

In few cases, colour photocopy of the allotment letter was presented which was not like the original receipt because the colonizers issue the allotment letter on a particular mark or watermark paper on the backside, but the coloured photocopy was on different paper, which was easily distinguishable. In such circumstances, the dispute could not be resolved.

It is also argued by the colonizer that they were using a particular type of diary for noting of the amount paid, but some of the persons issued different type of diaries and on which they noted the payment which was not accepted by the colonizers and the complainants / applicants did not turn up later-on for settlement of their cases.

This Committee proposed to refund of amount with interest at the rate of 12% per annum from the date of deposit of the amount. The basis for the proposal of 12% interest was that in RERA Act, the maximum 10% interest + 2% interest was to be paid to the investors. Therefore, this rate of interest is also proposed by the Committee. There is no other circular or Act of the Government for the grant of interest more than the proposed rate of interest of 12%. Therefore, the rate of interest for the refund of money @ 12% per annum is adopted and in so many cases, the colonizers have accepted and payment made to the complainants / applicants.

In few cases, the clients have disputed and demanded higher rate of interest, those cases have been submitted to the Court for appropriate orders. In few cases, colonizers have disputed this rate of interest i.e. 12% P.A. These cases are also referred to the Court for suitable orders.

In three cases (Case No.14/2023, Case No.40/2023 and Case No.45/2023), the applicants / complainants requested for the report of the Handwriting Expert in respect of the signatures of Colonizer Shri Happy Dhawan on the diaries and the Handwriting Expert by his report confirmed the signatures of Colonizer Shri Happy



Dhawan on the diaries. The colonizer was not satisfied with the report of the Hand-writing and he proposes to file his objections, however, due to paucity of time of this Committee, the Colonizer has been advised to file objections before the Hon'ble Court.

Hon'ble the Supreme Court of India vide order dated **01.11.2022** passed by in **Criminal Appeal No.1876/2022 [Arising out of SLP (Criminal) No.10869 of 2018]** in case of **The State of Madhya Pradesh v. Sonali Ajmera** has observed in paras 6 and 7, as under: -

“6. However, the claims of remaining home buyers could not be settled due to resistance shown by some of the suspects who are *prima facie* involved in the land scam, and as such, some of the aggrieved home buyers too have approached this Court by way of intervention applications.

7. In such circumstances, when individual claims are required to be examined and then to be adjudicated through the judicial process, we deem it appropriate to relegate these matters back to the High Court for a fresh consideration after taking into account the subsequent developments which have taken place during the pendency of proceedings before this Court. Equally important are other stakeholders, who are involved in the entire corpus of issues such as the financial institutions, depositors and the real estate developers.”

In this way, interlocutory applications filed by the persons other than the home buyers were not considered by the Supreme Court and they are to be afresh considered by the High Court. Objectors Shri Kailash Chandra Garg, Shri Ramesh Chandra Mittal, Shri Pradeep Agrawal, M/s. Chandrababhu Homes Private Limited, Shri Nitesh Chugh and Shri Mahesh Wadhwani as well as Punjab National Bank filed their objections with their title on the land involved in the land scam. Their objections were heard and decided vide order dated **07.08.2023** passed in main lead case being **Case No.147/2023 (Nitin Chhazed S/o Shri Prem Kumar Chhazed v. Av-alanche Reality Private Limited & others)**, order dated **02.08.2023** passed in main lead case being **Case No.61/2023** filed by complainant **Shri Arpit Patni S/o Shri Subhash Patni**, order dated **02.08.2023** passed in main lead case being **Case No.68/2023** filed by complainant **Punit Demla** and order dated **02.08.2023** passed in main lead case being **Case No.57/2023 (Phoenix Town)** filed by complainant **Shri Pankaj Patel S/o Shri Ramesh Patel** (in respect of Official Liquidator), copy of the aforesaid orders are enclosed collectively with this report as **ANNEXURE C/2**.

These objections which involve the interpretation of legal aspect of the matter and legal questions like impact of provisions of the Partnership Act, after dissolution of the partnership with the colonizers, after their resignation from the partnership. The property of other home buyers mortgaged with the bank, without their consent by the colonizers and by illegally creating charge on their plots. The liability of the

outgoing partner from the partnership firm while the assets and the liabilities have been accepted by the remaining partners of the partnership firm or the company and the other legal questions which are mentioned in the orders enclosed as Annexure C/2 are to be considered by the Hon'ble Court. Therefore, the effect of the objections filed by various objectors is that these cases could not be settled and / or compromised in between the parties before this Committee.

Thus, due to all these circumstances, the remaining cases could not be settled and / or compromised between the parties.

In the last, the overall position which emerges out is that total 254 complaints were received by this Committee, out of which 137 complaints have been discussed and are liable to be settled; hence, submitted for suitable orders of the Hon'ble Court.

APPRECIATION

Before parting with this report, the efforts made by the then Collector, Indore, Shri Manish Singh and the then Additional District Collector, Indore Shri Abhay Bedekar and the Team of their Subordinate Officers, who participated with the pious object for settlement of disputes of the home buyers, with the object of public service and prepared status report, are highly appreciated. Without their hard work and pious object, the problems of stakeholders and / or home buyers could not have been solved and this Committee would have been able to resolve the same.

The object of the District Administration in solving the problems of the public (aggrieved persons of Phoenix Town) relating to the Colonizers was to find out a way to solve the problems and in this respect the District Administration has acted very intelligently with a pious object and did all the exercise up to the Hon'ble Supreme Court in furtherance of this object. For which every Officer has played an active role in this process and has done very pious job for the service of the people at large and in the interest of justice. Therefore, their efforts are highly appreciated, especially Shri Manish Singh, the Collector of that time and the Additional District Magistrate, Shri (Dr.) Abhay Bedekar, IAS (who was also a Member of this Committee).

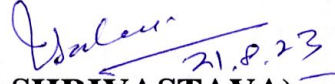
APPRECIATION FOR STAFF

Since the beginning, the staff posted with this Committee including Ramesh Chandra Pithawe, Shri Shailesh Sukhdeve, Shri Arun Nair, Shri Pramod Kushwaha, Ms. Shruti Jha, Ms. Akanksha Lohariya, members of the secretarial staff including



Readers / Clerical Staff Shri Praveen Malviya, Shri Devendra Chouhan, Shri Ramiz Khan, Shri Vijay Arya, Smt. Arti Bhatnagar and Class-IV Employees Shri Navneet Sharma and Shri Krishna Jadhav and other Staff Members have worked very hard to complete the affairs of this Committee and without their cooperation, the work of this Committee was not possible. Hence, hard work of everyone is highly appreciated.

Therefore, Report of this Committee is submitted for kind perusal and suitable action, as His Lordship pleases.


(JUSTICE I.S. SHRIVASTAVA)
CHAIRMAN

Indore, dated 21.08.2023