

India Threatened With Arbitration Over Real Estate Debacle

By **Caroline Simson**

Law360, New York (June 3, 2016, 7:48 PM ET) -- Two United Arab Emirates companies have issued a second notice to India of their intent to arbitrate a dispute over two massive Mumbai real estate projects, saying the government improperly confiscated their assets and made their investment worthless, according to documents recently publicized.

Strategic Infrasol Foodstuff LLC and a joint venture between the Thakur Family Trust and Ace Hospitality Management DMCC said in the second notice, issued May 20, that they are reconfirming their original, October notice of arbitration, in which they accuse India of accepting false documents from Indian businesses Shapoorji Pallonji & Co. Pvt. Ltd. and S.D. Corp Pvt. Ltd., which had joined onto the projects for financial support and help with construction activities.

Later on though, once the necessary clearances for the project had been obtained, the Indian companies "turned greedy" and took it over, relying on forged documents to overthrow the project's original promoters, according to Strategic Infrasol and the joint venture. They claim that the government relied on those documents to confiscate all the pair's assets in connection with the two projects, which were to be located on government-owned land in Mumbai, in violation of a treaty between India and the UAE.

The claimants say that by allowing the Indian companies to continue development of the government land, India has become an "accomplice and co-conspirator."

"Accepting forged documents as genuine and treating the SP group as the final word in truth despite evidence to the contrary has created conditions for the claimants that are not in line with the international obligations of the Republic of India," the notice states. "Sadly, the Republic of India seemed to be working on cues from the SP Group serving their interests against all norms of behavior expected from a respected member of the comity of nations."

Moreover, the Indian government confiscated the consortium's properties and assets, including bank accounts, forcing the UAE firms to cease all their business activities, according to the notice.

The claimants say their loss was estimated by an accountant to be around \$9 billion, although they consider the loss to actually be much greater. They are asking that the arbitration be conducted in London under United National Commission on International Trade Law rules.

Attorneys and representatives for the parties were not immediately available for comment Friday.

Strategic Infrasol and the joint venture had worked with a consortium of Indian companies to acquire rights in and develop two massive real estate development projects in Mumbai on government-owned land, according

to their notice of arbitration. Altogether, the consortium invested 2.5 billion rupees (about \$40 million) on the projects. The consortium began working on the two projects in 1998.

The consortium collaborated with the Indian businesses Shapoorji Pallonji and S.D. Corp. for financial support and help with construction, but Strategic Infracol claims that those companies betrayed the consortium and fraudulently expropriated its rights by using forged documents. Moreover, Strategic Infracol says that the Indian government actively supported Shapoorji Pallonji's fraudulent efforts by treating those forged documents as genuine.

In the May 20 notice, Strategic Infracol and the other claimants noted that India still has not responded to their original notice, in violation of [UNCITRAL](#) arbitration rules. Strategic Infracol noted that India has acted in a manner that further violates the fair and equitable treatment guaranteed to investors under a treaty between India and the UAE.

Nevertheless, the Indian government did respond to a Jan. 12 notice submitted by the claimants regarding certain original copies of "key documents" held by them and their associates in relation to the two projects. But the government's response relied on a letter from the Samata Nagar Cooperative Housing Society Ltd. that allegedly contradicted the stand taken by the claimants, which the claimants say was not verified or confirmed by the government.

The claimants did not detail the position stated by the housing society in the May 20 notice, though they noted it is "in contradiction to the views / stands taken by other organs of the Republic of India in the past."

The claimants are represented by Anil Chawla Law Associates LLP.

Attorney information for India was not immediately available on Friday.

The case is Strategic Infracol Foodstuff LLC et al. v. Republic of India. Additional case information was not immediately available.

--Editing by Edrienne Su.

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