ITEM NO.301 COURT NO.3 SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A.Nos.13-15/2014 in CONMT.PET.(C) No.412/2012 and 413/2012 In C.A. No. 9813/2011 and C.A. No. 9833/2011 and Conmt. Pet.(C) No.260/2013 in C.A. No.8643 of 2012)

S.E.B.I. Petitioner(s)

VERSUS

SAHARA INDIA REAL ESTATE CORPN.LTD.&ORS. Respondent(s)

(With Appln. On behalf of three detenues U/o XLVII, Rule 6 of the Supreme Court Rules 1966 for shifting from Barrack No.3 to outhouse in the Tihar Jail Premises at Tihar Jail, Delhi for having effective negotiations with prospective buyers/lenders)

Date: 01/08/2014 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s) **Mr. Arvind P. Datar,Sr.Adv. (SEBI)**
Mr. Pratap Venugopal,Adv.
Ms. Surekha Raman,Adv.
Mr. Purushottam Kumar Jha,Adv.
Mr. Gaurav Nair,Adv.
Ms. Niharika,Adv.
Ms. Meenakshi Chauhan,Adv.
For M/s. K. J. John & Co.

Mr. Shekhar Naphade,Sr.Adv. (A.C.)
Ms. Shubhangi Tuli,Adv.
Mr. Vikram Sobti,Adv.

For Respondent(s) **Mr. Ranjit Kumar,S.G.**
Mr. D.S. Mahra,Adv.
Mr. B.V.Balaram Das,Adv.

Mr. Tushar Mehta,ASG
Mr. Arijit Prasad,Adv.
Ms. Anil Katiyar,Adv.

Signature Not Verified
Digitally signed by
Mahabir Singh
Date: 2014.08.01
19:00:35 IST
Reason:

For Applicant (s) **Mr. Harish N. Salve,Sr.Adv.**
Mr. K.T.S. Tulsi,Sr.Adv.
Mr. S. Ganesh,Sr.Adv.

Mr. Gaurav Bhatia,Adv.
Mr. Gautam Awasthi,Adv.
Ms. Arohi Bhatia,Adv.
Mr. S. Seth,Adv.
Mr. Raj Kamal,Adv.
Mr. Kuber Boddh,Adv.
Mr. Rajat Singh,Adv.
Mr. Antaryami Upadhyay,Adv.
Mr. Jatin P.,Adv.
Mr. Keshav Mohan,Adv.
Mr. Gaurav Kejriwal,Adv.

Ms. Shally Bhasin,Adv.
Ms. Sadapaurna Mukherjee,Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard.

The contemnors stand committed to jail by our order dated 4th March, 2014 on account of their failure to comply with the directions of this Court in terms of orders dated 31st August, 2012 and 5th December, 2012 and those issued on 25th February, 2013 in Civil Appeal No.9813 of 2011. By an order dated 26th March, 2014, the contemnors were granted interim bail subject to their depositing a sum of rupees ten thousand crores, out of which rupees five thousand crores had to be deposited in cash while the balance had to be secured by a bank guarantee from a nationalised bank in favour of Securities and Exchange Board of India (SEBI). By yet another order dated 4th June, 2014, this Court had lifted the embargo placed by an earlier order upon the operation of the bank accounts and sales/transfer of immovable assets held by Sahara Group of Companies qua nine properties referred to in the said order. Sahara Group have, ever since the above orders, deposited an amount of rupees three thousand crores approximately by sale/encashment of FDs, Bonds and Securities and by sale of one of the nine items of property permitted to be sold.

By our order dated 22nd July, 2014, we had allowed Saharas to transfer, sell or encumber three Offshore hotel properties owned by them subject to the conditions that the entire sale consideration received by the Saharas after repayment of the loan outstanding towards the Bank of China is deposited with SEBI towards compliance with the directions contained in the conditional bail order dated 26th March, 2014. The prayer made by the contemnors for parole to enable them to negotiate deals in connection with the sale of the offshore properties was however declined on the ground that there was no concrete proposal at that stage to justify any such concession in favour of the contemnors. We had all the same made it clear that if and when the occasion arises and negotiations appear to be essentially for sale of the properties, Saharas could approach this Court for appropriate orders. The present applications have now been filed by the contemnors seeking the following directions:

(a) Shifting of Applicants from Barrack No.3 to the 'Outhouse in the Tihar Jail Premises' at Tihar Jail, Delhi;

(b) Allow three secretarial persons for full 24 hours to assist the applicants along with the office equipments as mentioned in para in finalizing the negotiations, quickly; and

(c) pass such other or further order or orders or such directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and to meet the ends of justice.

When these applications came up before us on 25th July, 2014, Mr. Ranjit Kumar, learned Solicitor General, was requested to appear on behalf of Government of National Capital Territory of

Delhi and to examine and place on record options considered feasible for purposes of facilitating negotiations which the contemnors may like to conduct with the parties interested in purchasing their properties situated within and outside the country. Pursuant to the said direction, Mr. Ranjit Kumar filed an affidavit on 30th July, 2014 sworn by Supdt., Tihar Jail No.3, indicating two clear "Options". One of these Options was accepted to M/s. Harish N.Salve and K.T.S. Tulsi, appearing for the contemnors, subject to certain further directions on the subject touching the "visiting hours" to be specified by this Court keeping in view the time-difference between India and the United States of America where some of the interested parties may be located. At the request of Mr. Salve, the matter was adjourned to enable the learned counsel for the parties to present a mutually acceptable mechanism for making "Option-I", suggested in the affidavit, workable.

When the matter came up today before us Mr. Salve presented to us a proposal indicating the minimal requirements that alone can according to him provide a viable mechanism for facilitating negotiations with the prospective buyers. According to the said proposal, the contemnors need to be lodged at the premises, mentioned in "Option-I" of the affidavit dated 30th July, 2014 filed by the Superintendent of the Central Jail, No.3, Tihar, New Delhi, for twenty days, including Sundays and holidays rather than moved to and fro for video conference from their barracks. In addition, the proposal requires the following five items to be provided to the contemnors:

1. Video Conferencing System and Internet/WI-FI connection.

2. One Telephone line with STD/ISD Facility and one Mobile Phone

3. Two Desktop computers with Printer and stationary.

4. Two Laptops

5. 2-Secretarial, 1-Technician/Operator and 1-office staff

It was submitted by Mr. Salve that although it is not necessary that the premises, mentioned in "Option-I", should be declared as a jail, yet there should not be any difficulty in the competent authority issuing an appropriate notification to that effect. Mr. Ranjit Kumar submitted in reply that a notification will be necessary as the contemnors have been committed to judicial custody and they can be validly held in the said premises aforementioned only if it is declared as a jail. He, however, had no serious objection to the premises, mentioned in "Option-I" of the said affidavit to be declared as a jail by the competent authority by the 4th of August, 2014. We must add to the credit of Mr. Kumar that he had no objection even regarding the facilities, indicated by the contemnors and extracted above, to be allowed to the contemnors. Mr. Ranjit Kumar submitted that video conferencing system and internet/Wi-Fi connection facility already exists in the conference room comprising "Option-I" of the affidavit, which could be used by the contemnors at their own expenses. Insofar as a telephone line with STD/ISD facility, a mobile phone, two desktop computers with printer and stationary, two laptops are concerned, the Jail Authorities, would according to Mr. Kumar, permit the same to be brought into the premises comprising "Option-I", subject to suitable check and verification from the security angle.

There is no difficulty even in permitting two secretarial staff and one technician/operator (total three in number) to be allowed in the premises from 6 a.m. to 8 p.m. initially for a period of ten working days commencing 5th August, 2014, subject to the condition that the names, particulars and addresses of such staff are furnished to the Jail Authorities, Superintendent of the

Central Jail, No.3, Tihar, New Delhi by 10 am tomorrow so that the Jail Authorities are in a position to verify their antecedents and other credentials, if so advised.

In the circumstances, therefore, we allow these applications but only to the extent indicated above. We make it clear that this arrangement is limited to a period of ten working days commencing 5th August, 2014 to enable the contemnors to negotiate sale of the properties within and outside the country during this period and shall not constitute a precedent in future. We also make it clear that rules, regulations, procedures in regard to visitors/visiting hours shall continue to be applicable during the period the contemnors are lodged in premises, mentioned in "Option-I" in the affidavit dated 30th July, 2014. We further make it clear that all other conditions stipulated in the affidavit dated 30th July, 2014 shall also continue to remain applicable.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER