ITEM NO.301 COURT NO.2 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. 68-70, 71-73 & 74-76 in CONMT.PET.(C) No. 412/2012 In C.A. No. 9813/2011 AND CONMT.PET.(C)NO.413/2012 IN C.A.NO.9833/2011.

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

VERSUS

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

(For Impleadment and directions and exemption from filing O.T. and office report)

WITH

CONMT.PET.(C) No. 260/2013 In C.A. No. 8643/2012
(With Office Report)

Date : 03/08/2015 These applications 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. Shekhar Naphade, Sr. Adv.(A.C.)

Mr. Arvind P. Datar, Sr. Adv.
(for SEBI) Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Gaurav Nair, Adv.
Ms. Niharika, Adv.
M/s. K. J. John & Co.,Adv.

Mr. Pradeep Kant, Sr. Adv.
Mr. Rakesh Chaudhary, Adv.
I.A.No.68-70/2015 Ms. Kamini Jaiswal, Adv.
Mr. Abhimanue Shrestha, Adv.
Ms. Divyanshu Sahay, Adv.
Ms. Shumaila Altaf, Adv.
Ms. Shilpa Dey, Adv.

Signature Not Verified
Digitally signed by Deepak Mansukhani
Date: 2015.08.07 23:16:58 IST
Reason: Digital Signature Card of Mr. Deepak Mansukhani is being used by Mr. Ashok Raj Singh, Court Master.

Mr. Paras Kuhad, Sr. Adv.
(For Samridhi Ms. Swati Vijaywagiya, Adv.
Developers) Ms. Ekank Mehra, Adv.
Mr. Tarun Gupta, Adv.

	Mr. Guru Krishna Kumar, Sr. Adv.
	Mr. D.L. Chidananda, Adv.
(for CBDT)	Mr. Sadhana Sandhu, Adv.
	Mrs. Anil Katiyar, Adv.

For Respondent(s)

	Mr. Kapil Sibal, Sr. Adv.
	Dr. Rajeev Dhawan, Sr. Adv.
	Mr. Gautam Awasthi, Adv.
	Mr. Keshar Mohan, Adv.
	Mr. Gaurav Kejriwal, Adv.
	Mr. Nikhil Jain, Adv.
For R. No.5	Mr. Ayush Chouhdary, Adv.
	Mr. Nijam Pasha, Adv.
	Mr. Simranjeet Singh, Adv.
	Mr. Gautam Talukdar, Adv.
	Mr. Rahul Tripathi, Adv.
	Mr. Vijay Kumar, Adv.
	Mr. Abhinav Tripathi, Adv.
	Mr. R.S. Yadav, Adv.
	Mr. Aditya Chopra, Adv.
	Mr. Shyam Divan, Sr. Adv.
(for Divine	Mr. S.S. Ray, Adv.
Infrasolutions Ltd.)	Mrs. Rakhi Ray, Adv.
	Mr. Vaibhav Gulia, Adv.
For RBI	Mr. Ramesh Babu M.R., Adv.
	Mr. Swati Setia, Adv.
(For Ministry of	Mr. G.K. Kumar, Sr. Adv.
law)	Mr. Arijit Prasad, Adv.
	Mr. B.V.B. Das, AOR

UPON hearing the counsel the Court made the following

O R D E R

By our order dated 13.07.2015, we had directed the applicant-Samridhi Developers and M/s Gorakhpur Real Estate Developers Private Limited to deposit an amount equivalent to 25% of 150 crores in the SEBI Sahara Account excluding the amount already

deposited by the applicant. While Samridhi Developers has complied with the said order within the time allowed by this Court, M/s Gorakhpur Real Estate Developers Private Limited has not been able to do so. When the matter came up for hearing today, Mrs. Kamini Jaiswal, learned counsel appearing for the said company presented before us bank drafts for a sum of Rs.25 crores and 51 lakhs and a cheque for a sum of Rs.1 crore drawn in favour of SEBI Sahara Refund account along with a certificate from the bank concerned that the account on which the cheque is drawn has sufficient funds for payment of the cheque amount. Ms. Kamini Jaiswal submits that the intervening delay in deposit of the amount could be delayed and the deposit taken as having been made within the time stipulated by this Court. We see no reason to decline that prayer. We have accordingly handed over the drafts and the cheque mentioned above to Mr. Pratap Venugopal, learned counsel appearing for the SEBI for being credited to SEBI Sahara Account.

On the last date of hearing, both the intending purchasers had offered a sum of Rs.150 crores for the property in question. It was at that stage that we had directed deposit of further amount by both of them only to test whether their offers are bona fide. Since both the parties have complied with the said direction as mentioned above we asked Mr.Paras Kuhad, learned counsel appearing for Samridhi Developers whether he was willing to raise his offer beyond Rs.150 crores. Mr. Kuhad, upon instructions, submitted that his clients were not ready to go beyond 150 crores. Mr. Kuhad

submitted that if M/s Gorakhpur Real Estate Developers Private Limited raised the offer beyond 150 crores, the property could be directed to be sold to them with a direction to SEBI to refund the amount deposited by Samridhi Developers.

Ms. Kamini Jaiswal, learned counsel appearing for M/s Gorakhpur Real Estate Developers Private Limited has on instructions further raised the bid amount by another Rs.2 crores to take it to 152 crores as against 150 crores offered by Samridhi Developers. In that view, therefore, we see no reason to decline the higher offer made by Gorakhpur Real Estate Developers Private Limited not only because the amount offered is higher but also because the said company has shown its seriousness and bona fides by depositing a total amount of Rs.37.51 crores by now out of which Rs.11 crores which has been deposited in this court which shall stand transferred to SEBI Sahara Account. Consequently, the arrangement arrived at between the respondent Saharas and Samridhi Developers shall stand rescinded with a direction to the SEBI to refund the amount deposited by Samridhi Developers in connection with the sale and purchase of property at Gorakhpur latest within a period of one week from today. Needless to say that the memorandum of understanding executed between Samridhi Developers and the Sahara shall stand annulled in view of the subsequent above developments.

Ms. Kamini Jaiswal, then submitted that the Saharas must

keeping in view the representation made before this Court as also the terms settled with the outgoing purchases execute a memoramdum of understanding with the Gorakhpur Real Estate Developers Private Limited on the same terms and conditions as were settled between Samridhi and Saharas.

Mr. Kapil Sibal, learned senior counsel appearing for the Sahara has no objection to that course of action. He submits that the requisite memorandum of understanding on the very same conditions as were settled with the outgoing purchaser shall be executed within a period of one week from today with M/s Gorakhpur Real Estate Developers Private Limited. Mr. Sibal clarified that joint owners of the property at Gorakhpur or their duly authorised power of attorney shall execute the memorandum of understanding on their behalf in favour of new purchaser. That statement is recorded.

Regarding the balance payment due for the property in question we have already mentioned in our order dated 13.07.2015 that the successful bidder shall have to deposit the remainder of the sale price in three equal monthly installments falling due on 31.08.2015, 30.09.2015 and 31.10.2015. Now that the signing of the memorandum of understanding is going to take some time, the first installment earlier scheduled to be due on 31.08.2015 shall have to be shifted to another date. We accordingly direct that the first of the remaining three installments shall be payable on 10.09.2015, the second on 10.10.2015 and the third and last installment which

would also represent the balance of the amount shall fall due on 10.11.2015.

We also make it clear as we have done in our previous order dated 13.07.2015 that in the event of any default in payment of any one of the three balance installments, the amount already deposited by the purchaser shall stand forfeited and that the purchaser shall not be entitled to claim any extension of time for making such payment.

At this stage, Ms. Kamini Jaiswal submits that since this Court has made the deposits preemptory and since the last of the installments falls during festival time, this Court would consider granting time till 30.11.2015 to make the payment of the last installment. We order accordingly. The payment of last installment shall now be paid by 30.11.2015 instead of 10.11.2015 as directed earlier.

Mr. Arvind Datar, learned senior counsel appearing for SEBI has filed a statement in terms of previous order of this Court, a copy whereof has been furnished to counsel appearing on the other side.

I.A. No.77-79 of 2015 in Contempt Petition No.412 of 2012 in Civil Appeal No.9813 of 2011

Issue notice to M/s Divine Infra Solutions Pvt. Ltd. Company which is said to be in default.

Mr. S.S. Ray, counsel appearing on behalf of the said company accepts notice. On his request, two weeks' time is granted for filing reply to this application. Rejoinder affidavit, if any, shall be filed within two weeks thereafter. Mr. Gairi Shankar Singh, Director and authorised representative of the said company shall remain present in person on the next date of hearing.

I.A. No.53-55 of 2015

In terms of order in the main matter, these applications shall stand dismissed.

I.A. No.68-76 of 2015

I.As. No.68-76 of 2015 are disposed of in terms of our order of even date in the main application.

I.A.No.80-82 of 2015

We do not see any reason to entertain the I.A. No.80-82 of 2015 which are accordingly dismissed.

I.A. No.68-69 of 2013

Reply in this petition has already been filed by the contemnors. The SEBI is free to file rejoinder to the reply within two weeks.

List again along with any fresh application for appointment of receiver, if any, filed by SEBI along with Transferred Case (Civil) Nos.83, 84, 85, 86, 87 of 2014 and all other pending applications in Contempt Petition (C) Nos.412 & 413 of 2012 and Contempt Petition (C) No.260 of 2013 in the week commencing from 14th September, 2015.

Mr. Paras Kuhad, learned senior counsel appearing for the intending purchaser of property situated in Varshwa seeks permission to file a fresh application for extension of time for payment of balance amount supported by relevant documents. He is permitted to do so.

Post the application for hearing within three weeks after the application has been filed.

(Ashok Raj Singh)
Court Master

(Renu Diwan)
Court Master