ITEM NO.301 COURT NO.1 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. 77-79, 89-91, 104-106, 83-85, 144-146, 153-155, 158-160, 147, 161-163, 164-165, 166, 167, 168-170, 171-173, 174-176, 177-179/2016, 132-134, 135-137/2015, 138-140/2016, 141-143/2016 & 131/2015 in CONMT.PET.(C) No. 412 & 413/2012 In C.A. No. 9813 & 9833/2011 AND C.P. (C)NO.260/2013 IN C.A.NO.8643/2012

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

VERSUS

SAHARA INDIA REAL ESTATE CORPN.LTD.&ORS. Respondent(s)
(for appropriate orders and impleadment and directions and placing on record additional facts and documents and exemption from filing O.T. and office report)

Date : 27/04/2016 These applications were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)
Mr. Shekhar Napahade, Sr.Adv. (A.C.)
Ms. Shubhangi Tuli, Adv.
Mr. Vikram Sobti, Adv.

Mr. Arvind P.Datar, Sr. Adv.
Mr. Pratap Venugopal, adv.
MS. Surekha Raman, Adv.
Mr. Purushottam Kumar Jha, Adv.
Mr. Anuj Sarma, Adv.
MS. Niharika, Adv.
Mr. Aman Shukla, Adv.
M/s. K. J. John & Co.,Adv.

For Respondent(s) **Dr. Rajeev Dhawan, Sr. Adv.**
Mr. Gaurav Kejriwal, Adv.
Mr. Keshav Mohan, Adv.
Mr. Gautam Awasthi, Adv.
Mr. Nikhil Jain, Adv.
Mr. Ayush Choudhary, adv.
MS. Preeti Singh, Adv.
Mr. Abhinav Tripathi, Adv.
Mr. Nijam Pasha, Adv.

Signature Not Verified
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Date: 2016.04.29 17:32:58 IST
Reason:

Mr. Simranjeet Singh, Adv.
Mr. Gautam Talukdar, Adv.
Mr. Kumar Ayush, adv.
Mr. Rahul Tripathi, Adv.
Mr. Vijay KumaR, Adv.
Mr. R.S.Yadav, Adv.
Mr. Dhirendra Singh, Adv.
Mr. Sujit Keshri, Adv.

Mr. Arun K. Sinha,Adv.

Mr. Paras Kuhas, Sr. Adv.
Mr. Omkar Geedh, Adv.
Mr. Gaurav Agrawal,Adv.
Mr. Jitin Chaturvedi, adv.
MS. Swati Vijay Vargiya, Adv.

Mr.Rohan Thawani, Adv.
MS. Vandana Sehgal, Adv.
Mr.Anand Daga, Adv.
Mr. Bhushan Mohata, Adv.

Mr. Gaurav Kejriwal,Adv.

Mr. Gautam Awasthi,Adv.

Mr. Ramesh Babu M. R.,Adv.
MS. Swati Setia, Adv.

Mr. D.L.Chidananda, Adv.
Ms. Sadhna Sandhu, adv.
Mr. Rajat Nair, Adv.
Mrs. Anil Katiyar,Adv

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Mr. Sunil Fernandes,Adv.
Ms. Astha Sharma, Adv.
Mr. Puneeth K.G., Adv.

Mr. Yash Pal Dhingra,Adv.

Mr. Satyajit A.Desai, adv.
Ms. Anagha S. Desai,Adv.
Mr. Mithilesh Kumar, Adv.

Mr. Sanjib Sen, Sr. Adv.
Mr. Amitabh Chaturvedi, adv.
Mr. Sumit Shukla, Adv.
Mr. S.S.Ray, Adv.
Mr. Sanjeev Sachdeva, Adv.
Ms. Rakhi Ray,Adv.

Mr. Biswajit Bhattacharya, Sr. Adv.

Mr. Pawan Upadhayay, adv.
Ms. Sharmila Upadhyay,Adv.

Ms. Vandana Sehgal,Adv.

Mr. Manish Vashisht, Adv.
Mr. Samir Vashisht, Adv.
Dr.(Mrs.) Vipin Gupta,Adv.

UPON hearing the counsel the Court made the following

O R D E R

I.As. No. 164-165 of 2016:

Learned counsel for the applicants submits that he has instructions to withdraw these applications as the claims made by the applicants stand fully satisfied. I.As. No. 164-165 of 2016 are accordingly dismissed as withdrawn.

I.A No. 166 of 2016:

Heard.

By our Order dated 21.11.2013, we had directed that Sahara Group of Companies shall not part with any moveable and immoveable properties until further orders from this Court. That order has remained in force ever since. In the present application, the applicant seeks a clarification to the effect that the order afore-mentioned does not prevent the applicants from executing/enforcing the judgment dated 11.08.2015 passed by NCDRC against Sahara India Commercial Corporation Ltd. in Consumer Complaint No. 47 of 2009. We see no reason to decline that prayer. We accordingly clarify that our Order dated 21.11.2013 passed in Consumer Complaint No. 47 of 2009 in Contempt Petition © No. 412 of 2012 in Civil Appeal No. 9813 of 2011 shall not prevent the

applicant from executing the judgment dated 11.08.2015 of the NCDRC passed against Sahara India Commercial Corporation Limited in Consumer Complaint No. 47 of 2009 in accordance with law.

I.A No. 167 of 2016:

Heard.

On the analogy of the Order passed in I.A. No. 166 of 2016 we clarify that our Order dated 21.11.2013 passed in Consumer Complaint No. CC/13/17 in Contempt Petition © No. 412 of 2012 in Civil Appeal No. 9813 of 2011 shall not prevent the applicants from executing the judgment dated 07.11.2015 of the State Consumer Disputes Redressal Commission, Maharashtra, Nagpur passed against Sahara India Commercial Corporation Limited in Consumer Complaint No. CC/13/17 in accordance with law.

I.A. No. 147 of 2016:

In this application seeking intervention by the applicants, the applicant's precise grievance appears to be that Complaint Case No. CC/13/15 filed by him before the State Consumer Disputes Redressal Commission, Maharashtra, Circuit Bench, Nagpur is not being proceeded with on account of our Order dated 21.11.2013 in Contempt Petition No. 412 of 2012 in Civil Appeal No. 9813 of 2011. It is submitted by learned counsel for the intervenor that intervenor-applicant shall be satisfied in case it is clarified that the order passed by this Court on 21.11.2013, whereby this Court restrained the Sahara Group of Companies from alienating any property moveable or otherwise, does not prevent the

concerned Consumer Disputes Redressal Commission from proceeding with contempt case filed by the applicants and passing appropriate orders on the same. We see no reason to decline that prayer. We make it clear that our dated 21.11.2013 shall not prevent the concerned Disputes Redressal Commission from proceeding with and passing orders in accordance with law in pending Complaint Case No. CC/13/15 filed by the applicant.

I.A. No. 147 of 2016 is accordingly disposed of with the said direction.

I.As. No. 153-155 of 2016:

Mr. Biswajit Bhattacharya, learned senior counsel for the applicants submits that he does not propose to press these applications for the present. The applications are dismissed as not pressed.

I.A. No. 131 of 2016:

Heard.

Learned counsel for the parties agree that the genuineness of the agreement to sell and purchase allegedly entered into between Sahara India Commercial Corporation Ltd. on the one hand and the applicant on the other and the payments allegedly made towards sale consideration of the property agreed to be sold and purchased by the parties could be left to be verified by Mr. Justice B.N.Agrawal before whom the parties agree to present their respective versions supported by documents. We request Justice Agrawal to look into the matter and verify whether alleged transaction has been entered into by the parties and whether any payment pursuant to the said transactions have been paid and received by the purchaser and the

seller, if so, whether said payments are made before the issue of the order of restraint dated 21.11.2013 passed by us. We hope and trust that Justice Agrawal shall submit a status report on the subject expeditiously but not later than three months from the date a copy of this order is received by him.

Post after the needful is done.

I.As. No. 174-176 of 2016:

By our order dated 29.03.2016, we had issued several directions including a direction to SEBI to devise a suitable mechanism for sale of properties, the title deeds whereof have already been deposited with it by Saharas. The mechanism for such sale was to be finalised in consultation with and under the supervision of Justice B.N.Agrawal, former Judge of this Court. Mr. Arvind P.Datar, learned senior counsel for SEBI has pursuant to the said directions filed 15th Status Report of SEBI in which it is inter alia pointed out that SEBI has in consultation with Justice Agrawal engaged the services of HDFC Reality (a subsidiary of Housing Development Finance Corporation Ltd.) and SEBI Capital Markets Limited (SBICAP), a subsidiary of State Bank of India for auctioning of the properties. The report sets out the terms and conditions on which the afore-mentioned two agencies have agreed to undertake the process of sale and transfer of properties in question. Mr. Arvind P.Datar submits that the two agencies engaged by SEBI have been given four months' time to complete the process of effecting the sales. He submits that the first phase of the process of sale is to commence in the immediate future and that

given two weeks' time, he should be able to file a further status report indicating the progress made in that direction. He further states that the title deeds deposited by Saharas with SEBI need to be verified, the defects, if any, rectified with the help of the concerned Sahara companies. Be that as it may, we expect the agencies engaged by SEBI to take immediate steps for sale of the properties in question after due and proper verification and after completing all other safeguards necessary for ensuring that the properties are sold for the optimum price they can fetch.

Mr. Datar points out that Saharas have not so far submitted a complete list of all the properties owned by them. He urged that on record are found only two lists, one comprising properties at Versova and Vasai and the other enumerating 71 different items of properties which include Vasai for a second time. The first list estimates the market value of Versova and Vasai at Rs. 20,443.72 crores. The second list comprising 71 items includes Vasai and estimates the value of the property at Rs. 20,172.50 crores. It is submitted by Mr. Datar that a large number of properties are owned by Sahara Group of the Companies over and above, the two lists mentioned above, details whereof has not been shared by the Saharas so far with this Court. He urged that Saharas could be directed to give a complete list of all the properties owned by them with probable value of each such property.

Dr. Rajeev Dhawan, learned senior counsel appearing for the contemnors on the other hand submits that the two lists referred to by Mr. Arvind Datar are not exhaustive. He submitted that he will take instructions and produce a complete list of all the properties

owned by Saharas over and above those mentioned in the list that are already filed before this Court.

Having said that Dr. Dhavan submitted that given the fact that the contemnors have spent more than two years in jail and the fact that SEBI has now been authorised to sell the properties mentioned in the two lists except Ambey Valley, this Court could consider granting parole to the contemnors or in the alternative shifting him out of the jail to be held under house arrest so that the contemnors could also assist in the process of sale of the properties with or without the intervention of SEBI to raise the money required to be deposited. He further submitted that if SEBI could furnish a copy of the title deeds consisting of Versova properties of Saharas, the latter may make an attempt to find purchasers for the said property with a view to raising funds for deposit with SEBI. Mr. Datar had no objection to a copy of title deed in question being made available to Saharas.

In the circumstances, therefore, we adjourn these matters till 11.05.2016. Mr. Datar may file an interim report as to the progress made in the direction of sale of the properties by the agencies. In the meantime Saharas shall file a list of the remaining properties owned by them.

Dr. Dhawan at this stage submits that a certain amount of money representing returns on the investment in gold and commodities (Spot Exchange) is lying to the credit of Sahara Q Shop Unique Products Range Ltd. with the National Spot Exchange. It is submitted that Sahara Q Shop Unique Products Range Limited appear to have approached the spot exchange for payment which request was

opposed by SEBI in view of the restraint order issued by this Court. He submits that this Court could permit SEBI to collect the amount payable to Saharas for adjustment against the outstanding dues. Mr. Datar seeks time to look into the matter and do the needful. We make it clear that any amount or commodity including gold which is lying with the spot exchange in the account of any one of the Sahara companies shall be made over to the SEBI for deposit in the SEBI Sahara Account. Earlier orders passed by us shall not be taken as an impediment for any such disbursement/payment to SEBI in terms of this order.

I.A. No. 135-137 of 2015:

M/s.Devendra Rajnikant Ladhani, Anil Ramchandra Gupta, Mukesh Shivdas Sonar, Directors of the Company who were directed to remain present in person to show cause why contempt proceedings be not be initiated against them are present in the Court. Mr. Paras Kuhad, learned senior counsel has already submitted his reply in this regard.

List the matter again on 11.05.2016.

The Directors shall remain present in person on that date.

(Shashi Sareen)
AR-cum-PS

(Veena Khera)
Court Master