ITEM NO.301 COURT NO.1 SECTION XVII
(Part-Heard)

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, 158-160, 161-163, 168-170, 171-173, 174-176/2016, 177-179/2016, 132-134/2015, 138-140/2016, 141-143/2016 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 directions and appropriate orders and impleadment and intervention and placing on record of additional facts and documents and exemption from filing O.T. and office report)

(I.A. Nos. 180-182 of 2015 (Appln. for provisional release)

(I.A. Nos. 185-187 & 188-189 of 2016 (Appln. For appropriate directions and directions)

Date : 11/07/2016 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. (AC)
Ms. Shubangi Tuli, Adv.
Mr. Vikram Sobti, Adv.

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

Signature Not Verified
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Date: 2016.07.12 14:31:50 IST
Reason:

For Respondent(s) No. 5	**Mr. Kapil Sibal, Sr. Adv.** **Dr. Rajeev Dhawan, Sr. Adv.** **Mr. Gautam Awasthi, Adv.** **Mr. Ayush Chaudhary, Adv.** **Mr. Nizam Pasha, Adv.** **Mr. Simranjit Singh, Adv.** **Mr. Gautam Talukdar, Adv.** **Mr. Ram Sajan Yadav, adv.** **Mr. Aarohi Bhalla, Adv.** **Mr. Vijay Kumar, Adv.** **Mr. Rahul Tripathi, Adv.**
IA 190-191/16	**Mr. Ratnakar Das, Sr. Adv.** **Mr. G.Sivabalamurugan, Adv.** **MS. Vandana, Adv.** **Mr. Anis Mohd., Adv.**
IA 188-189	**Mr. Biswajit Bhatatcharya, Sr. Adv.** **Mr. Pawan Upadhayay, Adv.** **MR. Sarvjit Pratap Singh, Adv.** **MR. Aakash Tyagi, Adv.** **Ms. Sharmila Upadhayay, Adv.** **Mr. Tushar Mehta, ASG,** **Mr. D.L.Chidananda, Adv.** **Ms. Sadhna Sandhu, adv.** **Mr. Rajat Nair, adv.** **Ms. Anil Katiyar, Adv.**
IA 135-137	**Mr. Paras Kuhad, Sr. Adv.** **Mr. Omkar Geedh, Adv.** **Mr. Gaurav Agrawal,Adv.** **MR. Jitin Chaturvedi, Adv.** **MS. Swati Vijay Vargiya, Adv.** **MS. Aditi Triathi, Adv.** **Mr. Gaurav Kejriwal,Adv.**
For RBI **.**	**Ms. Swati Setia, Adv.** **Mr. Ramesh Babu M. R.,Adv.** **Mr. Sunil Fernandes,Adv.** **MS. Astha Sharma, Adv.** **Ms. Rakhi Ray,Adv.** **Mr. Sameer Vashishit, Adv.** **Dr.(Mrs.) Vipin Gupta,Adv.**

UPON hearing the counsel the Court made the following

O R D E R

By our Order dated 11.05.2016, we had extended the interim arrangement made by under our Order dated 06.05.2016 till 11.07.2016 subject to the contemnors-Subrata Roy Sahara and Ashok Roy Choudhary depositing an additional sum of Rs. Two hundred crores by 11.07.2016. In the event of their failure to do so, the police escort team, in whose protective custody they have been placed, was directed to take them back to Tihar jail for being lodged there. Mr. Kapil Sibal, learned senior counsel appearing for the contemnors has today handed over to Mr.Arvind Datar, learned senior counsel appearing for SEBI six different bank drafts- five drawn on Union Bank of India and one on Punjab National Bank for a total sum of Rs. Two hundred crores in compliance with the direction mentioned above. Mr. Sibal submits that given time till 03.08.2016, the contemnors would deposit a further sum of Rs. Three hundred crores for continuance of the interim arrangement made in terms of our Orders dated 6th and 11th May, 2016.

Mr. Datar, learned senior counsel appearing for SEBI and Mr. Shekhar Naphade, learned Amicus Curiae have no serious objection to the time prayed for being granted on the condition that the Saharas shall during the intervening period deposit a further sum of Rs. Three hundred crores with SEBI in the SEBI Sahara account. In that view, therefore, we continue the

arrangement made in terms of the orders mentioned above till 03.08.2016 subject to the deposit of an additional amount of Rs. Three hundred crores by 03.08.2016. Needless to say, that in case the needful is not done within the time allowed, the two contemnors mentioned above shall be sent back to custody in Tihar jail as already directed.

Mr. Sibal next submitted that certain directions have been issued by this Court earlier enabling the SEBI to collect certain amount due to Saharas in National Spot Exchange Limited. He submits that the amount payable by Saharas towards mutual funds and shares have not so far been recovered by SEBI despite the directions of this Court. Mr. Datar, however, submits that SEBI has taken steps in that direction and a status report regarding the progress made shall be filed by the next date of hearing. We make it clear that the direction for deposit of Rs. three hundred crores by Saharas by 03.08.2016 shall remain independent of the collection which SEBI may make pursuant to the directions already issued.

Mr. Sibal then argued that although this Court has permitted the Saharas to sell 19 different items of properties apart from three off-shore hotels and also to mortgage Ambey Valley to raise funds in terms of the directions of this Court, yet not much has been achieved in that direction on account of the conditions stipulated by this Court for such sale. He urged that this Court could in modification of the conditions stipulated earlier permit Saharas to sell the afore-mentioned properties and all other properties owned by Saharas on the same terms and conditions as were prescribed while committing SEBI to sell the

property. It was submitted that SEBI has been permitted by this Court to sell properties identified for such sale at a price not less than 90% of the circle value of the properties in terms of our Order dated 29.03.2013.

M/s.Arvind Datar and Shekhar Naphade have no objection to such permission being granted having regard to the fact that the process of sale of the properties even through SEBI has not yielded any result. In the circumstances, we modify our order issued earlier and permit Saharas to sell the properties owned by them subject to the condition that such sales are not for a price less than 90% of the circle rates stipulated for the area in which the properties are situate. Needless to say, that the sale price so recovered by Saharas shall be deposited in entirety less expenses, TDS and all other applicable taxes in the SEBI Sahara Account.

At this stage Mr. Ratnakar Das, learned senior counsel for the applicant in I.As. No. 190-191 of 2016 points out that one of the properties which the Saharas owns is situate at Coimbatore and has been developed in the name and style of Sahara City Homes. He submits that the applicants have purchased flats in the said developed area which spreads over a total extent of 12.28 acres out of a total area of 112.14 acres owned by Saharas. He submits that the permission granted by this Court should not jeoparize the interest of the applicants in the said developed colony. We accordingly make it clear that this permission shall not authorise the sale of 12.28 acres of land developed in the name and style of Sahara City Homes at Coimbatore. We however direct that the Saharas shall keep SEBI informed about the transactions entered

into by them and the terms on which the same have been made.

Mr. Sibal submits that a sum of Rs. 24 million pounds equivalent to Rs. Two hundred crores approximately is lying in Saharas account in a London Bank which the Saharas wishe to transfer to SEBI in discharge of their liability. He submits that the Saharas could be allowed to make the said transfer.

Mr. Datar in reply submits that any amount transferred by Saharas can be received by SEBI for adjustment towards their liability. In the circumstances, therefore, we permit the Saharas to transfer the amount mentioned above to SEBI Sahara Account.

Mr. Sibal at this stage submits that the third contemnor Mr. Ravi Shankar Dubey could also be let off on the same terms and conditions as stipulated for the release of other two contemnors. Learned counsel for the opposite parties do not oppose that prayer and submit that in case the conditions stipulated by this Court regarding deposit of the amount are not complied with, all the three contemnors shall be liable to be sent back to jail. We make it clear that the release of Mr. Dubey from jail will also be subject to the very same conditions as stipulated in regard to other two contemnors.

Mr. Paras Kuhad, learned senior counsel appearing for the Directors in Sai Rydam Realtors Private Limited- contemnors in I.A. Nos. 135-137 of 2015 submits that the contemnors namely M/s. Devendra Rajnikant Ladhani, Anil Ramchandra Gupta and Mukesh Shivdaas Sonar have filed an undertaking unconditionally undertaking to deposit the balance amount of Rs. 982.80/- crores in two equal instalments. The first instalment of Rs. 491.40 crores

shall be deposited by 30.11.2016 whereas the second instalment shall be deposited on or before 15.03.2017. He submits that the undertaking furnished by the contemnors could be accepted and time prayed for making the deposit granted to them. We see no reason to decline that prayer. We accordingly accept the undertaking given by the contemnors and direct that the proceedings initiated by this Court in terms of our Order dated 29.03.2016 shall stand dropped for the present subject to the contemnors mentioned above complying with the undertaking filed by them today. I.As. No. 135-137 of 2015 which were reserved for orders shall accordingly stand disposed off. The personal presence of the Directors of the company is dispensed with.

Keeping in view the difficulties and impediments that have been faced for effecting the recovery of the amount due from Saharas, we proposed to hear the applications for appointment of receiver moved by SEBI but Mr. Sibal sought time till 03.08.2016 to take instructions and argue the matter. We therefore direct that I.A. No. 104-106 of 2016 shall be listed for hearing on 03.08.2016 along with I.As. No. 83-85 of 2015.

I.A. Nos. 161-163 of 2016:

SEBI has sought permission to make refunds to such of the bondholders as have produced original bonds before SEBI for refund. Mr. Sibal, learned counsel submits that so long as the original bonds are verified, and the receipient of the money are duly identified and the payment of amount is made by Account Payee

cheque to them, there should be no difficulty in disbursing the bond amounts. We accordingly allow I.As. No. 161-163 of 2016 and permit the SEBI to disburse the amount cover by the bonds provided before it after verification and by way of cheques.

(Shashi Sareen)
AR-cum-PS

(Veena Khera)
Court Master