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. Nos.83-85/2015,104-106/2015, 131/2015, 158-160/2016, 180-182/2016, 190-191/2016, 194-195/2016, 205-207/2016, 208/2016, 209-210/2016, 211/2016,212-214/2016, 218-220/2016, 227/2016,231/2016, 232/2016, 239/2016, 240/2016, 241/2016, 242/2016, 243/2016 & 244-246/2016, 247/2016, 251-252, 253-255, 256, 257-259 & 260-262/2017

In

CONMT.PET.(C) Nos.412 & 413/2012 In C.A. Nos.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, impleadment and intervention, appropriate orders and provisional release and office report)

Date: 28/02/2017 These applications were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE A.K. SIKRI

Mr. Shekhar Napahade, Sr. Adv. (A.C.)
Mrs. Shubhanghi Tuli, Adv.
Mr. Vikram Sobti, Adv.

For Petitioner(s) Mr. Arvind P. Datar, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Purushottam K. Jha, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
Mr. Aman Shukla, Adv.
Ms. Kanika Kalaiyarasan, Adv.
for M/s. K. J. John & Co.

Signature Not Verified
Digitally signed by CHETAN KUMAR
Date: 2017.03.01 12:18:23 IST
Reason:

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Narendra Hooda, Sr. Adv.

Mr. Sanjiv Sen, Sr. Adv.
Mr. Gautam Awasthi, AOR
Mr. Gaurav Bhatia, Adv.
Mr. Ayush Choudhary, Adv.
Mr. Nijam Pasha, Adv.
Mr. Rahul Tripathi, Adv.
Mr. Nikhil Jain, Adv.
Mr. Simranjeet Singh, Adv.
Mr. Gautam Talukdar, Adv.
Mr. Tushar Gupta, Adv.
Mr. Ram Sajan Yadav, Adv.
Mr. Vijay Kumar, Adv.
Mr. Pramod Kumar Dubey, Adv.
Mr. Aardri Bhalla, Adv.

Mr. Gaurav Kejriwal, AOR

Mr. Ramesh Babu M. R., AOR
Ms. Swati Setia, Adv.

Mrs. Anil Katiyar, AOR

Mr. Rakesh Kr. Sharma, AOR

Mr. Amit Anand Tiwari, AOR

Mr. Yash Pal Dhingra, AOR

Mr. P.N. Puri, AOR

Mr. Bishwajit Bhattacharya, Sr. Adv.
Mr. Pawan Upadhyay, Adv.
Mr. Sarvjit Pratap Singh, Adv.
Ms. Sharmila Upadhyay, AOR

Mr. Saiby Jose Kidangoor, Adv.
Mr. C.K. Sasi, AOR

Mr. G. Sivabalamurugan, AOR

Ms. Vandana Sehgal, AOR
Mr. Anand Daga, Adv.

Mr. Rana Mukherjee, Sr. Adv.
Mr. D.L. Chidananda, Adv.
Mr. A.K. Srivastava, Adv.
Ms. Sadhana Sandhu, Adv.

Mr. Rajat Nair, Adv.
Mrs. Anil Katiyar, Adv.
Mr. M.K. Maroria, Adv.
Mr. Manoj Singh, Adv.
Mr. B.K. Prasad, AOR

Mr. Sriram P., Adv.
Mr. Vishnu Shankar M.S., Adv.
Ms. Athira G. Nair, Adv.
Mr. Ankur S. Kulkarni, AOR

Mr. Anupam Lal Das, AOR

Mr. Anish Maheshwari, Adv.
Ms. Rajeeta Roy, Adv.
Ms. Farha Malik, Adv.
Mr. Prashant Choudhary, AOR

Mr. Yunus Malik, Adv.
Mr. Sanjeev Agarwal, AOR

Ms. Meenakshi Arora, Sr. Adv.
Ms. Monisha Handa, Adv.
Mr. Mohit D. Ram, AOR

Mr. Balbir Singh, Sr. Adv.
Ms. Nishtha Sikronia, Adv.
Mr. Rabin Majumdar, Adv.

Ms. Vidhi Goel, Adv.
Ms. B. Vijaylaksmi Menon, Adv.

UPON hearing the counsel the Court made the following

O R D E R

This Court on 6th February, 2017, had directed the contemnor to file a list of properties that can be put to public auction. At that time, it was categorically mentioned that the properties should be free from any encumbrance.

In pursuance of the said order, a list of properties has been filed which has been categorized as Part 'A' and Part 'B'. Part 'A' contains list of fifteen properties which are stated to be free from encumbrances and Part 'B', as is

admitted, includes some of the properties which have been encumbered. As we had thought of putting the properties to auction, we think it appropriate to mention the list of properties contained in Part 'A'. It is as follows:-

1. **Sahara Hospital, Lucknow**
2. **Sahara India Sadan Shakespear Sarani, Kolkatta**
3. **Land at Sohna Road, Gurgaon**
4. **Land at Najafgarh, Delhi**
5. **Sahara City Homes at Indore**
6. **Sahara City Homes at Lucknow**
7. **Sahara City Homes at Coimbatore**
8. **Sahara States, Bhopal**
9. **Sahara City Homes at Guna**
10. **Sahara City Homes, Land at Katni, M.P.**
11. **Sahara City Homes, Land at Haridwar, Uttaranchal**
12. **Sahara City Homes, Land at Pune, Maharashtra**
13. **Land & Building at Whiltefield, Bangalore**
14. **Stake in Orange India Holdings Sarl, Silverstone, London**
15. **Land at Ghaziabad**

As far as Item No.14 is concerned, it is actually a property having stake in a particular holding and, therefore, Mr. Arvind P. Datar, learned senior counsel appearing for the S.E.B.I. has submitted that being an immovable property it can never be put to auction and, therefore, that should be excluded.

As far as Item No.15 is concerned, as the remarks column would reflect, it is a property in which compensation has been awarded in favour of the contemnor and the same has to be computed in accordance with the directions given in the award as per the order passed in S.L.P.(C) No.16609 of 2010.

At this stage, we enquired from Mr. Datar, learned senior counsel, who is being assisted by Mr. Pratap Venugopal, learned counsel appearing for the S.E.B.I. as to how long will it take to conduct auction in respect of the rest of the properties. Mr. Datar has submitted that earlier on two agencies, namely, SBICAPS, a subsidiary of the State Bank of India and the HDFC Bank, were appointed by this Court to conduct the e-auction, but they could not really sell the properties by way of e-auction as far as some of the properties are concerned, that is, Item Nos.5 to 11. It is his further submission that it is difficult to conduct auction and fetch money and, therefore, the contemnor may be directed to sell the properties and deposit the money with S.E.B.I. Mr. Arvind P. Datar, learned senior counsel has submitted that the contemnor is at liberty to sell any property situate in Part 'B' or anywhere else, subject to that the consideration should not be less than 90% of the guideline value/circle rate.

At this juncture, Mr. Kapil Sibal, learned senior counsel appearing for the contemnors submitted that if the contemnor is allowed to sell the properties, as mentioned in Part 'A', he will be able to do it and for that purpose, he needs six months. Having deliberated at length, we are not inclined to grant six months' time. Be it stated, the learned senior counsel appearing for the contemnor has stated

that the properties in Part 'A' are likely to fetch Rs.6715.34 crores. From the aforesaid amount, the compensation amount in respect of the land situate at Ghaziabad, U.P., that is, Rs.1112.70 crores and Rs.510.00 crores, the stake holding amount, have to be deducted. After deducting the same, the amount comes to Rs.5092.64 crores.

Be it noted, we have been apprised By Mr. Ramesh Babu, learned counsel appearing for the Reserve Bank of India that it has filed a winding up petition against Sahara India Financial Corporation Limited and, therefore, the contemnor should not sell any property belonging to the said company.

Having instructed by Mr. Narendra Hooda, learned senior counsel, Mr. Kapil Sibal, learned senior counsel appearing for the contemnor has submitted that that they will not alienate any property belonging to that company. If any property that is encumbered by any statutory authority is sold, it will be the duty and obligation of the contemnor to make the public aware about it.

In view of the aforesaid, we permit the contemnor to sell the properties mentioned in Part 'A' barring the property at Item No.15, and any other properties mentioned in Part 'B' and other properties which are not encumbered and deposit Rs.5092.64 crores on or before 13th April, 2017. The amount shall be deposited in SEBI Sahara Refund Account. In case, the substantial amount is deposited, this Court may think of extending the time, otherwise appropriate direction shall be issued.

At this stage, one aspect is required to be dealt with. As is evident from Part 'A', item No.15, the land at

Ghaziabad admeasures 91.65 acres. We have been apprised at the Bar that the same has been acquired by the Ghaziabad Development Authority and the price, as stated in the Annexure, is Rs.1112.70 crores. It is submitted by the learned senior counsel for the contemnor that the same is payable to him along with interest.

To appreciate the said submission, it is obligatory on the part of the Court to offer an opportunity of hearing to the Ghaziabad Development Authority. Let notice be issued to the said authority within a week hence. The requisites in that regard be filed by the petitioner, S.E.B.I., within three days from today. The competent authority of the Ghaziabad Development Authority shall bring the computation in regard to the compensation awarded and remain personally present on 17th April, 2017 before this Court. The Registry is directed to send a copy of this order to the competent authority of the Ghaziabad Development Authority.

In a case of this nature, surprises are bound to spring up. Mr. Sriram P., learned counsel has submitted that he has instructions from an International Real Estate Company, namely, MG Capital Holdings LLC, which is prepared to purchase the Plaza Hotel at New York, U.S.A. The company intends to offer 550 million US dollars for the stake of "Sahara" in that hotel. However, he wanted that he may be permitted to do due diligence and that should be granted by the contemnor. Though the submission advanced by Mr. Sriram appears quite innocuous, it cannot be so perceived. Once he intends to get into the fray, a fiscal one, he must be financially prepared. The permission can only be granted if he deposits a sum of Rs.750 crores before the Registry of this Court on or before 17th April, 2017. In addition, he may

supply the details of the company to Mr. Narendra Hooda, learned senior counsel assisting Mr. Kapil Sibal so that the credentials of the company can be verified.

The interim order passed on the earlier occasion to continue till the next date of hearing.

Let the matter be listed at 2.00 p.m. on 17th April, 2017.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master