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, 247/2017, 251-252, 253-255, 256, 257-259, 260-262/2017, 268-270/2017, 273-274/2017, 280-282/2017 & 284-286/2017

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: 17/04/2017 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.)

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

For Respondent(s) **Mr. Salman Khurshid, Sr. Adv.**
Mr. Narendra Hooda, Sr. Adv.
Mr. Gautam Awasthi, AOR
Mr. Ayush Choudhary, Adv.
Mr. Rahul Tripathi, Adv.

Mr. Sarthak Nayak, Adv.
Mr. Tushar Gupta, Adv.
Mr. Nikhil Jain, Adv.
Mr. Simranjeet Singh, Adv.
Ms. Neha Gupta, Adv.
Mr. Gautam Talukdar, Adv.
Mr. Ram Sajan Yadav, Adv.
Mr. Vijay Kumar, Adv.

Mr. Vivek K. Tankha, Sr. Adv.
Mr. R.V. Prabhat, Adv.
Mr. Sachin Pujari, Adv.
Mr. Prashant Kumar, 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. Vishwajit Bhattacharya, Sr. Adv.
Mr. Pawan Upadhyay, Adv.
Mr. Sarvjit Pratap Singh, Adv.
Ms. Sharmila Upadhyay, AOR

Mr. C.K. Sasi, AOR

Mr. Ratnakar Dash, Sr. Adv.
Mr. G. Sivabalamurugan, AOR
Ms. Vandana, Adv.

Ms. Vandana Sehgal, AOR

Mr. Rana Mukherjee, Sr. Adv.
Mr. D.L. Chidananda, Adv.
Ms. Sadhana Sandhu, Adv.
Mrs. Anil Katiyar, Adv.
Mr. M.K. Maroria, Adv.
Ms. Sushma Manchanda, Adv.
Mr. Nalin Kohli, Adv.
Mr. A.K. Srivastava, Adv.
Mr. B.K. Prasad, AOR

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

Mr. Anupam Lal Das, AOR

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

Mr. Yunus Malik, Adv.
Ms. Rajeeta Raj, Adv.
Mr. Sanjeev Agarwal, AOR

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

Mr. B.S. Banthia, Adv.
Mr. Sachin Daga, Adv.

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

Mr. Balbir Singh, Sr. Adv.
Mr. Rabin Majumder, Adv.
Ms. Nishtha Sikroria, Adv.
Ms. Rubal Maini, Adv.

Mr. Basava Prabhu Patil, Sr. Adv.
Mr. Rakesh U. Upadhyay, Adv.
Ms. Aarti Upadhyay, Adv.

Mr. B.A.S. Jadon, Adv.

Mr. R. Basant, Sr. Adv.
Mr. Amol N. Suryawanshi, Adv.

Mr. Sunil Fernandes, Adv.
Ms. Astha Sharma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Sriram Parakkat, learned counsel, who had filed I.A. No.247 of 2017, giving a proposal that MG Capital

Holdings LLC, New York, USA, shall purchase the Hotel Plaza by giving 550 million US dollars and to show its *bona fide,* had agreed to deposit Rs.750 crores with SEBI Sahara Refund Account, but that has not been done. It is submitted by Mr. Sriram that after due diligence, the Company has found that there is difficulty to go with the transaction.

The said interlocutory application has been filed by the Power of Attorney Holder, Dr. Prakash Swamy, who is the deponent to the application. As an affidavit of this nature was filed before this Court, we would like Mr. Rana Mukherjee, learned senior counsel appearing for the Union of India to intimate the Ministry of External Affairs, Government of India, so that Dr. Prakash Swamy does not leave India. The Union of India shall also issue a Red Corner Notice against Dr. Prakash Swamy in the course of the day.

It is further directed that Dr. Prakash Swamy shall deposit a sum of Rs.10,00,00,000/- (Rupees ten crores only) in the SEBI Sahara Refund Account, which shall be forfeited towards costs. The amount of Rs.10,00,00,000/- should be deposited within ten days hence, failing which this Court may issue non-bailable warrants of arrest against Dr. Prakash Swamy. Dr. Prakash Swamy, who belongs to Chennai, shall deposit his passport before the Regional Passport Officer, Chennai, Sastri Bhawan, by tomorrow i.e. 18th April, 2017. Mr. Sriram Parakkat, learned counsel shall hand over the address and the passport number of Dr. Prakash Swamy to Mr. Rana Mukherjee, learned senior counsel in the course of the day.

Let a copy of the order be handed over to Ms. Sadhana Sandhu, learned counsel assisting Mr. Rana Mukherjee, so that he can do the needful in the matter.

As no amount has been deposited by the contemnor, we are inclined to go ahead with auction for the Aamby Valley City near Lonavala, Maharashtra. It is submitted by Mr. Shekhar Naphade, learned Amicus Curiae assisting the Court in the matter that the Official Liquidator of the Bombay High Court may be appointed to conduct the sale. Mr. Arvind P. Datar, learned senior counsel being assisted by Mr. Pratap Venugopal, learned counsel appearing for the SEBI shall provide the necessary details of the said property to the Official Liquidator, who with his team, shall make the valuation and proceed with the auction. Learned counsel appearing for the contemnor shall provide all the necessary details of the property also to the Official Liquidator within forty-eight hours. If the Official Liquidator requires some amount, which is reasonable, as agreed to by Mr. Datar, he can make a requisition for the same, and the same shall be paid from the SEBI Sahara Refund Account.

Mr. Pratap Venugopal, learned counsel assisting Mr. Datar shall forward this order to the Official Liquidator of the Bombay High Court and also all the details that of the Aamby Valley City near Lonavala, as submitted by the contemnor to this Court, so that the Official Liquidator can verify from the contemnor and, thereafter, proceed in accordance with law. If the contemnor, as directed herein-above, gives the necessary details within forty-eight hours from the date of information, the Official Liquidator shall report to this Court directly.

Let the matter be listed at 2 p.m. on 27th April, 2017, on which day, the contemnor, Mr. Subrata Roy Sahara, shall remain personally present before this Court. Dr. Prakash Swamy, who has filed the affidavit in I.A. No.247 of 2017, shall also remain personally present at 2 p.m. on

27th April, 2017 before this Court. The concerned Superintendent of Police of Chennai shall be informed to ensure the personal presence of Dr. Prakash Swamy. Mr. Rana Mukherjee, learned senior counsel undertakes to intimate the Superintendent of Police, Chennai.

We are absolutely sure that the contemnor shall be guided by the affidavit that has been sworn and filed before this Court and not play truancy with the contents of the affidavit. He who plays truancy with the Majesty of Law, invites the wrath and, may, ultimately, has to suffer the peril.

The Registry is directed to send a copy of this order to the Official Liquidator of the Bombay High Court. The Official Liquidator must complete the exercise of valuation within ten days and send a report to this Court. We are sure all shall work in harmony to comply with the directions passed by this Court keeping in view the mandate of Article 144 of the Constitution of India.

The personal presence of the Vice-Chairman of the Ghaziabad Development Authority stands dispensed with.

The interim order passed on the earlier occasion shall remain in force till 27th April, 2017, as on that day, this Court may rethink of varying the interim order of bail and think of sending the contemnor to custody.

List the matter at 2 p.m. on 27th April, 2017.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master