**ITEM NO.301+302 COURT NO.2 SECTION XVII & X**

**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 & 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)**

**WITH**

**R.P. (Crl.) No. 458/2014 in WP (Crl) No.57/2014**

**Date: 27/04/2017 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. Anuj Kumar Sarma, Adv.**
**Ms. Niharika, Adv.**
**Ms. Kanika Kalaiyarasan, Adv.**
**Mr. Aman Shukla, Adv.**
**for M/s. K. J. John & Co.**

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

Mr. Gautam Awasthi, AOR
Mr. Ayush Choudhary, Adv.
Mr. Rahul Tripathi, Adv.
Mr. Zafar Khurshid, Adv.
Mr. Sarthak Nayak, Adv.
Mr. Tushar Gupta, Adv.
Mr. Aviral Dhindsa, Adv.
Mr. Simranjeet Singh, Adv.
Mr. Gautam Talukdar, Adv.
Mr. Ram Sajan Yadav, Adv.
Mr. Vijay Kumar, Adv.
Ms. Neha Gupta, Adv.
Ms. Geetanjali Kapur, 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. Biswajeet Bhattacharya, Sr. Adv.
Mr. Pawan Upadhyay, Adv.
Mr. Sarvjit Pratap Singh, Adv.
Mr. Akash Tyagi, Adv.
Ms. Sharmila Upadhyay, AOR

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

Mr. G. Sivabalamurugan, AOR
Ms. Vandana, Adv.

Ms. Vandana Sehgal, AOR

Mr. Rana Mukherjee, Sr. Adv.
Mr. D.L. Chidananda, Adv.
Ms. Sadhna Sandhu, Adv.
Mr. M.K. Maroria, Adv.
Mr. A.K. Srivastav, Adv.
Ms. Sushma Manchanda, Adv.

Mr. Nalin Kohli, Adv.
Mrs. Anil Katiyar, 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.
Ms. Rajeeta Raj, Adv.
Mr. Prashant Choudhary, AOR

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

Mr. Mohit D. Ram, AOR

Ms. B. Vijayalakshmi Menon, Adv.
Mr. Vinod Kapoor, Adv.

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

Mr. Sandeep Bajaj, Adv.
Mr. Aditya Chopra, Adv.
Mr. Rabin Majumder, Adv.

Mr. Sunil Fernandes, Adv.
Ms. Mithu Jain, Adv.
Mr. Arnav Vidyarthi, Adv.

**UPON hearing the counsel the Court made the following**

**O R D E R**

**In pursuance of our order dated 17.4.2017, Mr. Vinod Sharma, the Official Liquidator of the Bombay High court along with Ms. Yogini D. Chauhan, Deputy Official Liquidator and Mr. Amish Sharma, the Valuer are present. Mr. Sharma has filed the report of the Official Liquidator (OLR No.97 of 2017) along with the executive summary in respect of the**

**Aamby Valley City property. For the sake of convenience, we reproduce the same :-**

| **“Executive Summary** | | | | |
|---|---|---|---|---|
| **Valuation of Immovable Asset (Land & Building)** | **Valuation if within Aamby Valley City Land is considered at Ready Recknor Rate** | **Fair Market Value in INR (after taking discounting factor for land within Aamby Valley City)** | **Realizable Value in INR (at 90 % of Fair Market Value)** | **Distress Value in INR at 80% of Fair Market Value** |
| Valuation of Building & Constructed Area | 219366,34,884 | 219366,34,884 | 197429,71,396 | 175493,07,907 |
| Valuation of Land within Aamby Valley City | 4046117,25,215 | 3439199,66,433 | 3095279,69,789 | 2751359,73,146 |
| Valuation of Land held by Aamby Valley Ltd outside of Aamby Valley City | 46329,19,900 | 46329,19,900 | 41696,27,910 | 37063,35,920 |
| Land Held by Aamby Valley City at District Satara | 5582,83,000 | 5582,83,000 | 5024,54,700 | 4466,26,400 |
| **Total Value of Immovable Asset (Land & Building)** | **4317395,62,999** | **3710478,04,217** | **3339430,23,795** | **2968382,43,373** |
| | | | | |
| **Valuation of Movable Asset** | | | | |
| Inventory Held at Central Project Store at Service Zone Area | 3097,24,453 | 3097,24,453 | 2787,52,008 | 2477,79,563 |
| Closing Stock Food & Beverage Located at Town Plaza Operation Store as on 22.4.2017 | 152,43,393 | 152,43,393 | 137,19,053 | 121,94,714 |
| Summary of Movable Assets held within the Aamby Valley City | 25450,79,065 | 25450,79,065 | 22905,71,158 | 20360,63,252 |
| **Total Value of Movable Asset** | **28700,46,910** | **28700,46,910** | **25830,42,219** | **22960,37,528** |
| **Total Value of Asset (Movable & Immovable)** | **4346096,09,909** | **3739178,51,127** | **3365260,66,014** | **2991342,80,902** |
| **OR SAY** | **43,461 Crores** | **37,392 Crores** | **33,653 Crores** | **29,913 Crores** |
| Remark:- **For Land Within Aamby Valley City:-** Average Govt ready recknor rate is 53612.50 Rs Per Sq Meter. But in the present market scenario for real estate market specially after Demonetisation, availability of buyer at this price are very rare. So it require discounting hence We are considering 15% discounting factor from Govt ready recknor rate to arrive at the fair market value of this land.” | | | | |

**It is submitted by Mr. Vinod Sharma that this Court may fix a reserve fair price and instruct to proceed with the formalities of auction by preparing the draft terms and conditions and other formalities.**

**At this juncture, Mr. Kapil Sibal, learned senior counsel appearing for the contemnor, Subrata Roy Sahara, who is also present in pursuance of our earlier order, has filed an affidavit of undertaking. The relevant part of the said affidavit of undertaking, duly signed by Mr. Subrata Roy Shara, reads as follows :-**

> **"5. That towards the payment of the aforesaid first two instalments, being the first instalment of Rs.1500 Crores and the second instalment of Rs.552.21 Crores, the deponent is submitting two post dated cheque, being the cheque no.283549 dated 15.06.2017 drawn on Punjab National Bank, Mahanagar Branch, Lucknow for an amount of Rs.15,00,00,00,000/- (Rupees fifteen Hundred Crores only) and cheque no.283550 dated 15.07.2017 drawn on Punjab National Bank, Mahanagar Branch, Lucknow for an amount of Rs.552,21,00,000/- (Rs. Five Hudnred Fifty Two Crores Twenty two lakh only) both drawn in favour of SEBI Shara Refund Account No.012210110003740.**
>
> **6. That the deponent submits and assures to this Hon'ble Court that the said cheque would be honoured and encashed in all circumstances, on presentation on the due date, for which the deponent undertakes and assures to this Hon'ble Court."**

**We are not referring to the earlier paragraphs inasmuch as they contain assurance for the distant future. We are**

**concerned with the present and not with the distant future as that is not the duty of the Court in a contempt proceeding.**

**At this juncture, it is submitted by Mr. Shekhar Naphade, learned *Amicus Curiae* and Mr. Arvind Datar, learned senior counsel appearing for the SEBI being assisted by Mr. Pratap Vanugopal, learned counsel that the contemnor, as on today, owes approximately Rs. 11,169 Crores towards the principal and that is required to be paid. As the affidavit would show, the first cheque is for Rs.1500,00,00,000/- dated 15.6.2017 and the second cheque is dated 15.7.2017 for a sum of Rs.552,21,00,000/-. The affidavit shows assurance to see to it that the cheques shall be honoured in all circumstances on presentation on the due date.**

**On being asked, the contemnor submitted that it is his obligation to see that the cheques are encashed failing which he may be sent to custody.**

**At this juncture, Mr. Kapil Sibal, learned senior counsel submitted that the petitioner may be granted liberty to send Rs.1500,00,00,000/- (Rupees one thousand five hundred crores only) in the accounts of SEBI Sahara Refund Account through RTGS on or before 15.6.2017. Mr. Arvind Datar, learned senior counsel appearing for the SEBI submitted that he has no objection. If the amount comes to the account by electronic transaction, SEBI shall return the cheque**

**amounting to Rs.1500,00,00,000/- (Rupees one thousand five hundred crore only).**

**Regard being had to the submissions of the official liquidator and the affidavit that has been filed by the contemnor, we direct that the reserved price for the purpose of auction be fixed at Rs.37,392 Crores. The Official Liquidator shall proceed in accordance with the Rules of procedure and prepare a draft terms and conditions and sale notice and the same shall be filed for our approval on 19.6.2017. The terms and conditions for the auction shall be finalised by Mr. Vinod Sharma, the Official Liquidator in consultation with Mr. Justice B.N. Agarwal, formerly a Judge of this Court. The official liquidator will be at liberty to avail the expertise of an expert for drafting the terms and conditions. The official liquidator shall remain personally present with his team, on the next date of hearing.**

**List the matter at 10.30 a.m. on 19.6.2017. Be it clarified that the matter is directed to e listed on that day to scrutinise the action/steps taken in pursuance of the order passed today.**

**The interim order shall remain in force till then.**

**I.A. 247/2017**

**In pursuance of our earlier order, Mr. Prakash Swami, the**

power of attorney holder for M.G. Capital Holdings is present. The sum of Rs.10,00,00,000/- (Rupees ten crore only) has not yet been deposited. In view of the aforesaid, he is in violation of the order passed by this Court. Having heard his explanation which is not satisfactory, we hold him guilty of contempt of this Court and convict him accordingly.

We have heard Mr. Prakash Swami, who is present in the Court on sentence as well. He says that he is not a stake holder or a partner and on the basis of personal friendship, he had filed the affidavit and that he is a retired person and has no source of income.

Regard being had to the explanation offered, we think it appropriate to impose a simple imprisonment for a terms of one month. The Police personnel present in Court are directed to produce Mr. Prakash Swami before the concerned Registrar of this Court, who shall issue a warrant so that he can be put in Tihar Jail to serve the aforesaid sentence.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master