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

IA 83/2015, 104/2015, 1/2015, 131/2015, 158/2016, 180/2016, 190/2016, 194/2016,205/2016,208/2016,209/2016,211/2016,218/2016, 227/2016, 231/2016, 232/2016, 239/2016, 240/2016, 241/2016, 256/2017, 257/2017, 260/2017, 268/2017, 273/2017, 280/2017, 284/2017, 39847/2017, 47133/2017, 47681/2017, 49580/2017 in CONMT.PET.(C) No. 412/2012 In C.A. No. 9813/2011

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

VERSUS

SAHARA INDIA REAL ESTATE CORPN.LTD.&ORS. Respondent(s)

(ONLY 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, 260-260/2017, 268-270/2017, 273-274/2017, 280-282/2017, 284-286/2017, 47133, 47681/2017 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 and IA No.60598/2017-EXTENSION OF TIME)

Date : 25-07-2017 These matters 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.)
Ms. Shubhangi Tuli, Adv.
Mr. Vikram Sobti, Adv.

For Petitioner(s) 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.

Signature Not Verified
Digitally Signed by GULSHAN KUMAR ARORA
Date: 2017.07.25 17:37:17 IST
Reason:

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Salman Khurshid, Sr. Adv.
Mr. Gautam Awasthi, AOR

Mr. Ayush Choudhary, Adv.
Mr. Tushar Gupta, Adv.
Mr. Nizam Pasha, Adv.
Mr. Simaranjeet Singh, Adv.
Mr. Gautam Talukdar, Adv.
Mr. Zafar Khurshid, Adv.
Mr. Ram Sajan Yadav, Adv.
Mr. Vijay Kumar, Adv.
Ms. Neha Gupta, Adv.
Ms. Geetanjali Kapur, Adv.
Ms. Sakshi Kotiyal, Adv.

Mr. Mukul Rohtagi, Sr. Adv.
Mr. Gautam Awasthi, Adv.
Mr. Nikhil Jain, Adv.
Ms. Devanshi Singh, Adv.
Mr. Ayush Choudhary, Adv.
Mr. Tushar Gupta, Adv.
Mr. Ashish Maheshwari, Adv.
Mr. Zain Khan, Adv.
Mr. Prashant Kumar, AOR
Ms. Aarohi Bhalla, Adv.

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. Vishwajeet Bhattacharya, Sr. Adv.
Mr. Pawan Upadhyay, Adv.
Mr. Sarvjit Pratap Singh, Adv.
Mr. Akash Tyagi, Adv.
Mr. Ratik Sharma, 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. 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. Shamshravish Rein, Adv.
Ms. Athira R. Nair, Adv.
Mr. Ankur Kulkarni, Adv.
Mr. Aldanish Reins, Adv.
Ms. Maheravish Rein, Adv.

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

Mr. Vinod Kapoor, Adv.
Ms. Vidhi Goel, Adv.

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

Mr. Sandeep Bajaj, Adv.
Ms. Akanksha Mehra, 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

Heard Mr. Pratap Venugopal, learned counsel appearing for the petitioner-SEBI, Mr. Kapil Sibal, learned senior counsel appearing for the respondent-contemnor and Mr. Shekhar Naphade, learned *amicus curiae*.

This Court on 5.7.2017, had directed as follows :-

"At that juncture, keeping in view the progress with regard to the report of the official liquidator, the Court observed as under :-

> **"It is necessary to note that we had directed the Official Liquidator of the High Court of Bombay to proceed with the drafting of terms and conditions of sale notice for the Amby Valley property. Mr. Vinod Sharma, Official Liquidator submits that the terms and conditions have been scrutinized by Justice B.N. Agarwal, formerly a Judge of this Court, who has been nominated to supervise the refund process. A copy of the terms and conditions be handed over to the learned counsel for the contemnor. The original terms and conditions of the sale notice which have been filed in the Court be taken on record. Be it stated, the said documents have been filed with the report of the Official Liquidator being O.L.R. No.122 of 2017. The prayer for approval of the terms and conditions of sale notice shall be considered on the next date of hearing."**

In view of the aforesaid, we are absolutely disinclined to entertain the prayer for extension of time for encashing the cheque amount for Rs.552.21 crores dated 15.7.2017. SEBI is directed to produce the cheque in the concerned bank in the relevant account. If the cheque is dishonoured, appropriate consequences shall be faced by the contemnor. At this stage, we think it appropriate to accept the terms and conditions and the draft proclamation for the auction of Ambey Vally. Further steps for acution shall be taken if the cheque is not honoured.

At this juncture, it is submitted by Mr. Datar, learned senior counsel appearing for the SEBI that the property situated at Haridwar may require four more weeks to be auctioned as some portions are encumbered. Needless to say, the auction shall take place in respect of the unencumbered part of the Haridwar property and the same shall

> be adjusted not towards the cheque amount but towards the balance amount. We may hasten to add that though we have approved the terms and conditions and the draft proclamation, we have not directed for auction today as the date of the cheque is 15.7.2017 and if the cheque is honoured, we shall direct for deposit of bigger amount so that the sum due, which is approximately nine thousand crores as on today, shall be expressly realized, for realization is of the money is the principal purpose of the present proceedings.

The respondent-contemnor has deposited a sum of Rs.247 Crores. It is submitted by Mr. Sibal that the balance amount, that is, Rs.305.21 crores shall be deposited by 12.8.2017.

Mr. Pratap Venugopal, learned counsel appearing for SEBI has serious objection to the same.

At this Stage, Mr. Sibal earnestly urged that when the property has been attached and the valuation of the same is more than Rs.34,000 crores, this Court should grant time to deposit the amount and the reasonable time would be 18 months. Whether 18 month is reasonable or lesser time than that has to be debated. The issue, as presently perceived, is the bona fides of the respondent-contemnor and that can be spelt out or translated by action and the action is deposit of the dues in SEBI-Sahara account.

Having heard learned counsel for the parties at length, it is directed that the respondent-contemnor shall deposit Rs.1500 crores (Rupees fifteen hundred crores only) which would include the balance amount of today by 7.9.2017. After due consideration, we have granted time till 7.9.2017, though Mr. Sibal, with all humility at his command, prayed for fixing the date some time in October, 2017. Though we appreciate the humble submission but we are not in a position to accede to the same. The grant of time, without any steps taken by

theMr. Tushar Gupta, Adv.

Mr. Nizam Pasha, Adv.

Mr. Simaranjeet Singh, Adv. Court, would tantamount to giving indulgence. Indulgence has the propensity to give rise to procrastination which is the murderer of justice. Therefore, we are disposed to think that the first two steps for sale of Ambey Vally Project shall be undertaken within this time and for the same we approve the draft sale notice submitted by the Official Liquidator and direct him that he shall take first two steps by updating the dates.

The official liquidator shall publish the sale notice as given by him and the notice shall be published on 14.8.2017. The steps which are required to be taken for the publication of the sale notice are allowed. The amount that is required for publication shall be given from the SEBI Sahara Account. Mr. Pratap Venugopal shall see that the moment the official liquidator produce a letter, the amount shall be released to the official liquidator.

The respondent-contemnor shall remain personally present in Court on the next date of hearing.

Needless to say, the official liquidator shall remain present to assist the Court.

The interim order to continue till then.

Mr. Rabin Majumdar, learned counsel appearing for the applicant in IA No.265-266 of 2017 in Contempt Petition No.412 of 2012, on instructions, seeks leave of this Court to withdraw the I.As.

The I.As. are dismissed as withdrawn.

It is submitted by Mr. Naphade, learned *amicus curiae* that the sentence imposed on Mr. Prakash Swami is over and he

has suffered the period of custody. Regard being had to the same, the authority concerned is directed to release the passport that was seized. Mr. Rana Mukherjee, learned senior counsel appearing for the Union of India submits that he shall intimate the concerned officer to do the needful.

List the matter at 2.00 p.m on 11.9.2017.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master