

1/10/2013
Anil Kumar
Sebi Rec

BEFORE THE MAMLATDAR, JAMNAGAR (CITY) COURT

Shri M. P. Shah Commerce College Compound, Seven Roads,

Jamnagar. Phone/Fax No.: 0288 2674575

Email : mam-jamcity@gujarat.gov.in

Dispute/Case/Application No. 4/2013

Shri Santoshkumar, Sahara India,
Moti Chambers, 2nd Floor,
Opp. Bank of Baroda, Sumer Club Road,
Jamnagar.....

Applicant

Versus

Securities & Exchange Board of India,
SEBI Bhavan, Bhandra Kurla,
Mumbai....

Opponent

Sub : Under Section 108(1) of Land Revenue Code

The facts of the present case are that the Agricultural Land bearing Tika No.2 of Regular Survey No.378/3, Hec 17-77-59 stands in the name of Sahara India Commercial Corporation Ltd. as per Land Account No. 23. That the Securities & Exchange Board of India (SEBI) filed the judgment of the Hon'ble Supreme Court of India dated 31.08.2012 along-with an application dated 21.02.2013 requesting to enter in the Village Office and pursuant to that an entry No. 1902

dated 05.04.2013 was entered in the Village Record as the Second Right holders and the notices were issued to all the beneficiaries under Section 135 (D) of the Act.

The applicant has filed objection application dated 07.05.2013 stating therein that in the judgment of the Hon'ble Supreme Court of India there is no mentioning of the name of Sahara India Commercial Corporation Ltd. Company and therefore, no stay can be imposed against the transfer of this property and it is therefore, requested to give them an opportunity of being heard in respect of the entry entered. Thus, this case turned out to be a case of dispute and as such it came to be registered as case No. 4/2013 and the matter was fixed for hearing the parties on 15.06.2013, 29.06.2013 and 22.07.2013 and accordingly the parties were informed.

On 30.05.2013 the parties remained present through their learned advocates and the adjournment was sought on the ground of receiving necessary papers and for making representations and as such the matter was adjourned to

15.06.2013 and the parties were accordingly informed. On 15.06.2013 the learned advocate for the applicant through his representative sought the adjournment on the ground of studying case papers and on this day none from the side of the opponent remained present and as such the matter was adjourned to 29.06.2013 and the parties were accordingly informed. On 29.06.2013 the advocates of both the parties remained present and the advocate for applicant sought adjournment on the ground of filing written submissions in respect of the written reply and evidence produced by the opponent and the matter was adjourned to 22.07.2013 and the parties were accordingly informed. On 22.07.2013 the advocates of both the parties remained present. The advocate for the applicant filed written submissions on 22.07.2013 in furtherance to the objection application dated 07.05.2013 and also oral submissions were made. The advocate for the opponent made oral submissions in respect of the written submissions submitted on 15.06.2013 along-with evidence. Considering the oral as well as written

submissions of the parties the following main facts have come on the surface.

The applicant has mainly contended that this Court has no right to enter the disputed entry in the Village Record because there is no mentioning of the name of Sahara India Commercial Corporation Ltd. in the letter of SEBI dated 21.02.2013 and therefore, no entry can be made of the ownership. The decision of the Hon'ble Supreme Court of India is against the SIRCEL and SHICEL and other names and there is no mentioning of SICCL. Moreover, the Revenue Authority cannot take decision in respect of the ownership of land. In the attachment of properties there is no mentioning of the name of SICCL and no mentioning of the name is there in the decision. In the judgment of the Hon'ble Supreme Court of India in Civil Applications No. 9813 of 2011 and 9833 of 2011 dated 31.08.2013 at Annexure-2, on page No. 747 to 752 of the said judgment there are 1 to 10 directions and as per direction No.6 the SEBI is directed to conduct investigation in respect of the accounts, however,

instead of doing so the letter dated 21.02.013 is addressed to the Collector which is not proper. As per the direction No.9 the appointment of Retired Justice Shri B.N. Agarwal is made for proper implementation of this order. The SEBI was required to make representation before him and go to the Hon'ble Supreme Court through him. However, the letter has been addressed to the Collector which is not proper. The entire matter is pending before the Hon'ble Supreme Court of India and therefore, this Revenue Court has no authority to hear and decide the matter. When other companies and persons are defaulters their companies cannot be involved as it is not proper. The share holders of SICCL would be put into great hardships. The company should be given liberty. Therefore, the disputed entry entered is required to be cancelled in their favor.

Whereas the learned advocate for the opponent has mainly contended that in the proceedings being conducted before the Hon'ble Supreme Court of India the Sahara Group has filed an affidavits in the Civil Appeals inter alia the

representations have been made by the entire Sahara Group. On page No. 232 & 261 of Annexure-2 filed with the affidavits the disputed property is clearly mentioned and therefore, in the order of SEBI dated 13.02.2013 the properties of the said Annexures are ordered to be attached. The annexure as per the order dated 13.02.2013 is not challenged before any authority and there is no order of stay obtained against its' implementation. As per the order of the Hon'ble Supreme Court of India dated 17.07.2013 the activities being carried out by the SEBI as per the judgment of the Hon'ble Supreme Court are stayed. Therefore, the entry having been entered is required to be certified. Moreover, it is contended that the SEBI in the interest of investors can pass the legal order and can function like a court. As per the judgment of the Hon'ble Supreme Court of India on Page No.753 to 763 on Page No. 760 SEBI can pass the order for attachment and therefore, entry having been entered is required to be made certified.

Considering the oral as well as written submissions made by the learned advocates of the parties and perusing the evidence produced on record by both the parties, the argument of the learned advocate for the applicant cannot be accepted that SICCL of Sahara Group is not joined in this case because in the affidavits filed in the Hon'ble Supreme Court by the Sahara Group the properties mentioned therein also mentions about the present disputed property being Regular Survey No. 378/3, Hec 17-77-59 which is mentioned on Page NO. 232, 233 of the said annexure of land. Therefore, all the companies of Sahara Group are deemed to have been included and this applies to all the companies of Sahara Group and therefore, the applicant is liable to obey the same and therefore, the objections raised by the applicant cannot be accepted. The Hon'ble Supreme Court vide its order dated 17.07.2013 passed in the Contempt Petition No.412/2012 the stay order has been granted against passing of the order for implementation of the order of SEBI. As such the following order is passed;

ORDER

- (1) That the objection application dated 07.05.2013 and the written as well as oral submissions made in support of it by the applicant are not accepted.
- (2) That the entry No. 1902 pertaining to Tika No.2 of Jamnagar Area is ordered to be made "Certified".
- (3) That all the parties concerned be informed of this Resolution.
- (4) That the parties aggrieved against this Resolution can file appeal before the Dy. Collector, Jamnagar (City) within 60 days.

Pronounced today on this 17th day of August, 2013
under our signature and seal of the office.

Sd/- illegible
Mamlatdar
Jamnagar (City)

Copy to :

(1) Shri Santoshkumar, Sahara India,

C/o. Shri P. L. Popat, Advocate,

308, Madhav Darshan, Opp. Cricket Bungalow,

Jamnagar.

(2) Anita Kenkare, SEBI,

C/o. Shri N.K. Raval, Advocate,
21/23, Laxmi Chambers, Navjivan Press Road,
Nr. Old High Court Railway Crossing,
Ahmedabad.

(3) Talati Shri, Agricultural Tika No.2,
Jamnagar (City).