

ITEM NO.301

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. Nos. 83-85/2015, I.A. Nos. 104-106/2016, I.A. Nos. 180-182/2015, I.A.NOS. 194-195/2016 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)

(For directions, impleadment and intervention, appropriate orders, intervention and provisional release and office report)

WITH

CONMT.PET.(C) No. 413/2012 In C.A. No. 9833/2011
(With appln.(s) for stay and Office Report)

CONMT.PET.(C) No. 260/2013 In C.A. No. 8643/2012

Date : 03/08/2016 These applications were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)

Mr. Shekhar Napahade, Sr.Adv. (AC)
Ms. Shubangi Tuli, Adv.
Mr. Vikram Sobti, Adv.

Mr. Arvind P.Datar, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Purushottam Kumar, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
Mr. Aman Shukla, Adv.
M/s. K. J. John & Co., Adv.

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| For Respondent(s) No. 5 | Mr. Kapil Sibal, Sr. Adv. Mr. Narendra Hooda, Sr. Adv. Mr. Gautam Awasthi, Adv. Mr. Ayush Chaudhary, Adv. Mr. Nizam Pasha, Adv. Mr. Simranjit Singh, Adv. Mr. Gautam Talukdar, Adv. Mr. Ram Sajan Yadav, adv. Mr. Aaroahi Bhalla, Adv. Mr. Vijay Kumar, Adv. Mr. Rahul Tripathi, Adv. Mr. Nikhil Jain, Adv. Mr. Salim Inamdar, Adv. Mr. Sarthak Nayak, Adv. Mr. Aviral Dhirendra, Adv. |
| IA 188-189 | Mr. Biswajit Bhatatcharya, Sr. Adv. Mr. Pawan Upadhayay, Adv. MR. Sarvjit Pratap Singh, Adv. Ms. Sharmila Upadhayay, Adv. |
| I.A.83-85 | Mr. Tushar Mehta, ASG, Mr. S.Gurukrishna Kumar, Sr. Adv. Mr. D.L.Chidananda, Adv. Ms. Sadhna Sandhu, Adv. Mr. Rajat Nair, Adv. Ms. Anil Katiyar, Adv. |
| I.A.194-195/16 | Mr. Shyam Divan, Sr. Adv. Mr. Ashish Prasad, Adv. Ms. Mukta Dutta, Adv. Mr. Avinash Tripathi, Adv. Mr. Anit Anand Tiwari, Adv. Mr. Gaurav Kejriwal, Adv. Mr. Keshav Mohan, Adv. Mr. Sujit Keshri, Adv. |
| For RBI | Ms. Swati Setia, Adv. Mr. Ramesh Babu M. R., Adv. |
| I.A.144-146 | Mr. Sunil Fernandes, Adv. Ms. Astha Sharma, Adv. Mr. Pueneth K.G., Adv. |
| I.A.177-179 | Mr. Gopal Jain, Sr. Adv. Mr. Amitabh Chaturvedi, Adv. Ms. Rakhi Ray, Adv. |

Mr. Sameer Vashishit, Adv.
Dr. (Mrs.) Vipin Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Mr. Arvind P. Datar, learned senior counsel appearing for SEBI today submits that SEBI has received a further sum of Rs. Three hundred crores and sixty eight lacs (Rs. 300.68 crores) from Saharas pursuant to the previous orders of this Court. He further states that SEBI has through the agency engaged by it already sold eight properties for a total sum of Rs. One hundred ninety five crores and seven lacs (Rs. 195.07 crores). He submits that a second round of auction for the remaining properties can be conducted if so directed by this Court.

Mr. Kapil Sibal, learned senior counsel appearing for the contemnors on the other hand submits that the properties are being sold for a price less than the market value and that some of the properties now being offered for sale could be sold at a minimum of 110% of the prescribed circle rate. He submits that he is ready to intimate to the SEBI particulars of such of the properties as can be sold at the said rate and in regard to which the Saharas have a firm offer from a willing purchaser. He submits that any such intimation ought to result in that particular item of property being taken off the E-platform. Mr. Datar has no difficulty with that proposal being accepted subject to the condition that the intimation is made within ten days from today and the firm offer referred to therein is supported by deposit with Saharas of 10% of

the sale price offered for the property. In that view, therefore, we allow SEBI to undertake the second round of auction on E-platform, if necessary, after excluding the properties about which the Saharas may send an intimation to SEBI within ten days from today. It is made clear that such an intimation shall be honoured by Saharas only in case the intimation contains a specific statement to the effect that the prospective purchaser of the properties in question has deposited with Saharas at least 10% of the purchase price of the property sought to be sold to him.

Mr. Sibal has today filed an affidavit sworn by Subrata Roy Sahara inter alia stating that the Saharas have negotiated sale of four properties situate at different locations for a total sale consideration of Rs. Two hundred eighty one crores apart from six other properties which are proposed to be sold by Saharas for a sum of Rs. One hundred eighty crores. The affidavit further states that Saharas have received token amount towards advance in regard to the said sales. In the affidavit, the deponent undertakes to deposit a minimum of Rs. Two hundred crores by the 1st week of September, 2016. Mr. Sibal submits that the interim arrangement made by this Court in terms of our previous orders could continue till the next date of hearing subject to deposit of Rs. Two hundred crores during the intervening period.

The Saharas claim to have negotiated sale for a total value of Rs. Four hundred sixty one crores. We see no reason why the Saharas should not finalise the transactions before the next date of hearing and deposit the entire sale consideration with SEBI. Mr. Sibal however submits that instead of this Court fixing a

higher amount for deposit, the existing arrangement could continue subject to deposit of a sum of Rs Two hundred crores only as proposed in the affidavit.

We are of the view that deposit of a sum of Rs. Three hundred crores should suffice. We accordingly extend the interim arrangement made in terms of our previous order till 16.09.2016 subject to the condition that the Saharas deposit during the intervening period a minimum sum of Rs. Three hundred crores in SEBI Sahara Account.

Saharas shall also be entitled to sell moveable properties owned by them subject to the condition that the entire sale consideration received by them is deposited in SEBI Sahara Account and the list of the properties so sold and the consideration received against the same is filed in this Court.

Post on Friday i.e. 16.09.2016 at 2.00 P.M.

(Shashi Sareen)
AR-cum-PS

(Veena Khera)
Court Master