

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. 77-79, 89-91, 135-137, 104-106, 83-85, 119-121/2015, 144-146/2016, 132-134, 135-137/2015, 138-140/2016, 141-143/2016 & 131/2015 in CONMT.PET.(C) No. 412 & 413/2012 In C.A. No. 9813 & 9833/2011 No(s).

S.E.B.I.

Petitioner(s)

VERSUS

SAHARA INDIA REAL ESTATE CORPN.LTD.&ORS.  
(for appropriate orders and office report)

Respondent(s)

WITH

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

Date : 29/03/2016 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. Arvind P. Datar, Sr. Adv.  
Mr. Pratap Venugopal, Adv.  
Ms. Surekha Raman, Adv.  
Mr. Purushottam Kumar Jha, Adv.  
Mr. Anuj Sarma, Adv.  
Ms. Niharika, Adv.

Mr. Vishwajit Bhattacharya, Sr. Adv.  
Mr. Pawan Upadhyay, Adv.  
Mr. Sarvjit Pratap Singh, Adv.  
Ms. Sharmila Upadhyay, Adv.

Mr. Sunil Fernandes, Adv.  
Ms. Astha Sharma, Adv.  
Ms. Mithu Jain, Adv.  
Mr. Puneeth K.G., Adv.

Mr. Yashpal Dhingra, Adv.  
Mr. Saurabh Kripal, Adv.  
Ms. Shreya Mishra, Adv.  
Mr. Rahul Dhawan, Adv.  
Mr. Shailash Tiwari, Adv.  
Ms. Ridhi Madan, Adv.

Mr. Tushar Mehta, ASG  
 Mr. Gurukrishna Kumar, Sr. Adv.  
 Mr. D.L.Chidananda, Adv.  
 Ms. Sadhna Sandhu, Adv.  
 Mr. B.V. Balramdas, Adv.  
 Ms. Anil Katiyar, Adv.

Mr. Satyajit A. Desai, Adv.  
 Mr. Mithilesh Kumar, Adv.  
 Ms. Anagh S. Desai, Adv.

Mr. Shekhar Naphade, Sr. Adv.  
 Ms. Shubhangi Tuli, Adv.  
 Mr. Vikram Sobti, Adv.

Mr. Paras Kuhad, Sr. Adv.  
 Mr. Gaurav Agarwal, Adv.  
 Mr. Omkar Geedu, Adv.  
 Mr. Jitin Chaturvedi, Adv.  
 Ms. Swati Vijay Vargiya, Adv.

M/s. K. J. John & Co., Adv.

For Respondent(s)

Mr. Shyam Divan, Sr. Adv.  
 Mr. Gopal Jain, Sr. Adv.  
 (For Divine Infra- Mr. S.S. Ray, Adv.  
 Solutions pvt. Ltd.) Mr. Sanjeev Sachdeva, Adv.  
 Mr. Anish Jain, Adv.  
 Ms. Rakhi Ray, Adv.

Mr. Tushar Mehta, ASG  
 Mr. Guru Krishna Kumar, Sr. Adv.  
 Mr. D.L. Chidananda, Adv.  
 Ms. Sadhana Sandhu, Adv.  
 Mr. B.V. Balramdas, Adv.

Mr. Prag Tripathi, Sr. Adv.  
 Mr. Ramesh Babu, Adv.  
 Ms. Swati Sethia, Adv.

Mr. Rajeev Dhawan, Sr. Adv.  
 Mr. Gaurav Kejriwal, Adv.  
 Mr. Keshav Mohan, Adv.  
 Mr. Sujit Keshri, Adv.

Mr. Kapil Sibal, Sr. Adv.  
 Dr. Rajeev Dhawan, Sr. Adv.  
 Mr. Gautam Awasthi, Adv.  
 Mr. Nikhil Jain, Adv.  
 Mr. Ayush Choudhary, Adv.

Ms. Preeti Singh, Adv.  
Mr. Abhinav Mani Tripathi, Adv.  
Mr. Nijam Pasha, Adv.  
Mr. Simrajeet Singh, Adv.  
Mr. Gautam Talukdar, Adv.  
Mr. Rahul Tripathi, Adv.  
Mr. Vijay Kumar, Adv.  
Mr. R.S. Yadav, Adv.  
Mr. Kumar Ayush, Adv.

Mr. Ramesh Babu M. R., Adv.

Ms. Indra Sawhney, Adv.

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

I.A. No.153-155 of 2016

Issue notice.

Mr. Pratap Venugopal, learned senior counsel may file his objections to these applications within two weeks.

I.A. Nos.158-160 of 2016

Mr.Venugopal may file his objections to these applications within two weeks. We permit SEBI to receive and encash 357 cheques handed over by Mr. Kapil Sibal, learned senior counsel today on behalf of Sahara Group as the balance sale consideration for the Sahara properties.

Personal appearance of the Director of the applicant company, namely, M/s Divine Infr solutions Pvt. Ltd. shall stand exempted for future hearings subject to the clearance of the cheques for payment.

I.A. No.151-152 of 2016

Heard.

We see no reason to entertain these applications at this stage.

These applications are accordingly dismissed.

I.A. No.147 of 2016

Issue notice.

Learned counsel opposite may file their objections to this application within four weeks. Sahara shall while responding to the application set out the details of the project in which the application for intervention has been filed and of all other similar projects which are either completed or under completion all over the country. The time within which the projects shall be completed and the extent of investment required to complete the same shall also be indicated on an approximate basis.

I.A. No.135-137 of 2015

A reply has been filed on behalf of M/s Sai Rydam Realtors Pvt. Ltd., the purchasers of 270.77 acres of land situated at Vasai, Bombay. Mr.Kapil Sibal, learned senior counsel may file a rejoinder affidavit to the reply affidavit within four weeks.

We are *prima facie* of the view that the purchasers have despite an undertaking given to this Court failed to deposit the balance amount of Rs.981.50 crores without any lawful justification. We, therefore, see no reason why a notice should not be issued to the Managing Director and the Directors of the said company to show cause why proceedings for contempt of this Court should not be initiated against them. Notice shall be returnable within four weeks. The noticees viz. Shri Devendra Rajnikant Ladhani, Director, Shri Anil Ramchandra Gupta, Director and Shri Mukesh Shivdas Sonar, Director who shall remain present in person before the Court on the next date of hearing.

I.A. No.119-121 of 2016

Learned counsel for the parties submit that these applications have been rendered infructuous and may therefore be dismissed. We order accordingly.

I.A No.144-146 of 2016

List these applications along with I.A. No.104-106 of 2015 filed by SEBI.

Objections, if any, be filed by learned counsel opposite in the meantime.

I.A. No.138-140 of 2016

Mr.Kapil Sibal, learned senior counsel submits on instructions that Saharas have already handed over title deeds in respect of 86 properties owned by the Sahara Group worth more than Rs.20,000/- crores. These properties according to Mr.Kapil Sibal are encumbered. Mr. Kapil Sibal submits that, according to his instructions, another list of properties has also been furnished to SEBI comprising properties worth an additional Rs.20,000/- crores. Mr. Arvind Datar, learned senior counsel seeks time to verify whether a second list of properties has been given.

Mr. Kapil Sibal further submits that the properties mentioned in the two lists could be sold by SEBI for realizing the required amount to be deposited as a condition for release of the contemnors from jail.

Mr. Datar, in reply, submits that SEBI will have no objection to do so if directed by this Court. SEBI can initiate the process of selling the properties covered by the lists mentioned above with or without the assistance of an expert agency engaged for that purpose under the supervision of

Hon'ble Mr. Justice B.N. Agrawal, named by this Court to supervise the refund of the amounts by the Saharas. Mr. Sibal, learned senior counsel appearing for the Sahara has no objection in case SEBI is allowed to do the needful.

We, accordingly, direct that SEBI shall be free to devise a suitable mechanism for sale of properties the title deeds whereof have already been deposited with it by Saharas in consultation and under the supervision of Justice B.N. Agrawal, former Judge of this Court. SEBI shall keep Saharas duly informed about the steps taken by it in which event Sahara shall be free to provide such inputs as may be considered necessary so that the properties fetch a fair price towards sale consideration. We make it clear that SEBI shall not sell any property owned by Saharas for a price less than 90% of the circle rates for the area in question without the permission of this Court.

I.A. No.156-157 of 2016

These applications have been filed by SEBI for permitting the Saharas to make refund to those OFCD holders of Saharas who have made multiple deposits in cash irrespective of the amount invested by such investors. The prayer is not opposed by Saharas. We, accordingly, allow these applications and permit SEBI to refund the amount to OFCD holders who have made multiple deposit in cash irrespective of the amount deposited by the holders.

List again along with I.A. Nos.104-106 of 2015 filed by SEBI and all other pending applications for hearing on 27.04.2016 at 2.00 p.m.

(Ashok Raj Singh)  
Court Master

(Saroj Saini)  
Court Master