

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. 90-91/2014, 104-106/2015, 119-121/2015, 144-146/2016, 132-134/2015, 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

S.E.B.I.

Petitioner(s)

VERSUS

SAHARA INDIA REAL ESTATE CORPN.LTD.& ORS. Respondent(s)
(for appropriate orders and directions and impleadment and intervention and office report)

WITH

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

Date : 02/02/2016 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)

(For applicant/
intervenor) Mr. Shyam Diwan, Sr. Adv.
Mr. Sunil Fernandes, Adv.
Mr. Nishith Dhruva, Adv.
Ms. Astha Sharma, Adv.
Mr. Puneeth K.G., Adv.

(Income Tax
Department) Mr. Tushar Mehta, ASG
Mr. Guru Krishna Kumar, Sr. Adv.
Mr. D.L. Chidananda, Adv.
Ms. Sadhna Sandhu, Adv.
Mrs. Anil Katiyar, Adv.
Mr. B.V. Balaramdas, Adv.

(For Divine
Infra Solution
Pvt. Ltd.) Mr. Gopal Jain, Adv.
Mrs. Rakhi Ray, Adv.
Mr. S.S. Ray, Adv.
Mr. Vaibhav Gulia, Adv.

Mr. Shekhar Napahade, Adv.
Sr. Adv. (ac), Adv.
Mr. Vikram Sobti, Adv.
Ms. Subhangi Tulsi, Adv.
M/s. K. J. John & Co.,

For Respondent(s)

Mr. Kapil Sibal, Sr. Adv.
Mr. Gautam Awasthi, Adv.

Mr. Nikhil Jain, Adv.
 Mr. Ayush Choudhary, Adv.
 Ms. Preeti Singh, Adv.
 Mr. Nijam Pasha, Adv.
 Mr. Simranjeet Singh, Adv.
 Mr. Rahul Tripathi, Adv.
 Mr. Vijay Kumar, Adv.
 Mr. Abhinav Tripathi, Adv.
 Mr. R.S. Yadav, Adv.

Mr. Manoj V. George, Adv.
 Mr. Siju Thomas, Adv.
 Ms. Shilpa M. George, Adv.
 Mr. Rohit Adlakha, Adv.
 Mr. Towseef Ahmad Dar, Adv.

Mr. Gaurav Kajriwal, Adv.
 Mr. Keshav Mohan, Adv.
 Mr. Surjit Keshri, Adv.

Mr. Parag Tripathi, Sr. Adv.
 Mr. Ramesh Babu M.R., Adv.
 Ms. Swati Setia, Adv.
 Mr. Ramesh Babu, Adv.

Ms. Pinky Anand, ASG
 Mr. Karan Seth, Adv.
 Mr. Rishabh Jain, Adv.
 Ms. Saudamini Sharma, Adv.
 Mr. Sanchit Kumar, Adv.

(Union of India) Mr. G.K Kumar, Adv.
 Mr. Arijit Prasad, Adv.
 Mr. M.P. Gupta, Adv.

Mr. Paras Kuhad, Sr. Adv.
 Mr. Omkar Geedh, Adv.
 Mr. Gaurav Agarwal, Adv.

Ms. Rakhi Ray, Adv.

Mr. Y.P. Dhingra, Adv.

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

I.A. No.77-79 of 2015

Taken on Board.

By our order dated 03.08.2015 we had directed Mr. Gairi Shankar Singh, Director and authorized representative of M/s Divine Infra Solutions Pvt. Ltd. to remain present in this Court on the

next date of hearing. Despite the said direction he is not present today. Though no reply seems to have been filed on behalf of Divine Infra Solutions Pvt. Ltd., learned counsel for the company submits that a reply has already been filed. The Office is directed to locate and place the same on record. Mr. Gauri Shankar Singh shall remain present in person on the next date of hearing to show cause why he should not be proceeded against for breach of the undertaking dated 08.01.2015 furnished by him to this Court.

Mr. Gairi Shankar Singh shall all the same have the liberty of making the deposit in terms of the undertaking furnished on or before next date of hearing.

List I.A. No.77-79 of 2015 on 29.03.2016 at 2.00 p.m.

I.A. No.89-91/2015

Taken on Board.

Issue notice to Divine Infra Solutions Pvt. Ltd.

Mr. S.S. Ray, learned counsel accepts notice on behalf of the said respondent. He shall file his objection to the applications within two weeks. List I.A. No.89-91/2015 along with connected applications on 29.03.2016 at 2.00 p.m.

I.A. No.135-137/2015

Issue notice.

Mr. Gaurav Agrawal, learned counsel accepts notice on behalf of the respondents. He may file reply to these applications within two weeks.

I.A. No.119-121 of 2015

Learned counsel for the Saharas and SEBI shall file their reply to these applications within two weeks.

List I.A. No.119-121 of 2015 along with other connected applications on 29.03.2016 at 2.00 p.m.

I.A. No.138-140/2015

Mr. Kapil Sibal, learned senior counsel seeks permission to sell certain items of property including four aircrafts which the group companies owned details whereof are given in para 3 of the applications.

Mr. Venugopal, learned counsel for SEBI and Mr. Shekhar Napahade, learned amicus curiae may file their objections to these applications within two weeks.

List I.A. No.138-140/2015 along with connected applications on 29.03.2016 at 2.00 p.m.

I.A. No.104-106/2016

List applications for appointment of Receiver along with I.A. No.83-85/2015 for final hearing on 29.03.2016 at 2.00 p.m.

I.A. No.90-91 of 2014

Heard.

For the reasons stated in the applications and the additional affidavit filed by SEBI, we direct that a sum of Rs.41,44,76,410/- shall be reimbursed to SEBI towards the expenditure incurred by SEBI on various items as set out in the additional affidavit upto 28.05.2015. The reimbursement shall be out of the interest amount earned by the deposit made in SEBI Sahara Account. The adjustment shall be without prejudice to Sahara's right to seek refund if any in accordance with law.

I.A. Nos.90-91 of 2014 are accordingly disposed of.

Mr. Kapil Sibal, learned senior counsel submits that since the entire record filed by Saharas has been digitized the original documents can be returned to Saharas not only to keep them in safe custody but also to avoid the recurring expenditure which SEBI is

incurring towards rent of the storage facility hired by it.

Mr. Arvind Datar, learned senior counsel appearing for SEBI submits that he has no objection to the return of the documents provided they are kept in safe custody under double locking system by SEBI & Saharas.

Mr. Kapil Sibal, learned senior counsel agrees to approach SEBI with the requisite details of the storage facility where Saharas would like the record to be shifted for storage purposes. Once SEBI is satisfied with the storage facility it shall be free to transfer the records to any such facility to be retained under double lock of SEBI & Saharas. Transportation/Shifting of the record with the new storage facility shall be by Saharas. In case SEBI is called upon to do so expenditure so incurred on transportation/shifting shall be reimbursed to SEBI out of the interest earned by the deposit made by Saharas.

Mr. Arvind Datar submits that SEBI will have no difficulty in providing to Saharas a copy of the additional record at the expense of Saharas.

The needful shall be done within six weeks.

List the matter again on 29.03.2016 at 2.00 p.m.

(Ashok Raj Singh)
Court Master

(Veena Khara)
Court Master