

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
R E C O R D O F P R O C E E D I N G S

I.A.NOS. 47-55 IN C.P.(C)NO.412 & 413/2012 IN C.A.NO.9813 &
9833/2011 & C.P.(C)NO.260/2013 IN C.A.NO.8643/2012

S.E.B.I.

Petitioner(s)

VERSUS

SAHARA INDIA REAL ESTATE CORPN.LTD.&ORS.

Respondent(s)

(For extension of order of this Hon'ble Court dated 09.01.2015 and impleadment and extension of time to make the payment and office report)

Date : 24/02/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE ANIL R. DAVE
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. Arvind P. Datar, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Ms. Supriya Jain, Adv.
Mr. Gaurav Nair, Adv.
Ms. Niharika, Adv.
For M/s. K. J. John & Co.

(I.A.Nos.50-52) Mr. Parag P. Tripathi, Adv.
Mr. Ramesh Babu M. R., Adv.
Ms. Swati Setia, Adv.

(I.A.Nos.53-55) Mr. Paras Kuhad, Sr. Adv.
Mr. Gaurav Agrawal, Adv.
Mr. Omkar Geedh, Adv.
Ms. Swati V., Adv.

For Respondent(s) /
(Applicant(s)
in I.A.Nos.47-49) Dr. Rajiv Dhawan, Sr. Adv.
Mr. S. Ganesh, Sr. Adv.
Mr. Gautam Awasthi, Adv.
Mr. Gaurav Kejriwal, Adv.
Mr. Keshav Mohan, Adv.
Mr. Aarohi Bhalla, Adv.

Mr. Jitesh Shrivastava,Adv.
Mr. Ayush Choudhary,Adv.
Mr. Abhinav Mani Tripathi,Adv.
Mr. P.K. Rao,Adv.
Ms. Amrita Narayan,Adv.
Mr. Sujit Keshrail,Adv.
Mr. Aditya Chopra,Adv.
Mr. Raghav G.,Adv.
Mr. Piyush Chuadhary,Adv.

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

Heard.

I.As.No.50-52 of 2015:

These applications have been filed by Reserve Bank of India seeking addition as party respondent to these proceedings. From a reading of the averments made in the applications and the submission made in support of the same and keeping in view the fact that the parties do not have any objection to the prayer being allowed, we add Reserve Bank of India as a party respondent to these proceedings.

I.A.Nos.50-52 of 2015 are accordingly allowed and disposed of.

I.A.No..... of 2015 in I.A. Nos.101-103 in Contempt Petition Nos.9813 and 9833 of 2011 and Contempt Petition (c) No.260 of 2013 in Civil Appeal No.8643 of 2012 - (Application for Modification of Order dated 4th June, 2014 passed by this Court) :

Taken on Board.

Mr. Parag P. Tripathi, learned senior counsel for the applicant-Reserve Bank of India, submits that in terms of the report of the Auditors of Sahara India Financial Corporation Limited, one of the Sahara Group of Companies, FDs, Bonds and

Securities held by the said company have been encashed pursuant to an order of this Court dated 4th June, 2014 and sale proceeds/maturity value of Rs.484.67 crores lent to Sahara India a Partnership Firm instead of depositing the same in the "SEBI Sahara Refund Account" as directed by this Court. He submits that by encashing the securities which the Sahara India Financial Corporation Limited was required to maintain in terms of the directions issued by the Reserve Bank of India dated 17th June, 2008, the Saharas have not only committed a breach of the direction issued by the Reserve Bank of India but also violated the order passed by this Court. He submits that violation of this Court's order can be separately dealt with by this Court in these proceedings, but Reserve Bank of India who propose to take note of the breach committed by the Sahara company, aforementioned, and initiate proceedings against it under the relevant provisions of the Reserve Bank of India Act should be permitted to do so, after due notice to the company concerned.

Mr. S. Ganesh, learned senior counsel for the contemnors, submits that the report submitted by the Auditors does not appear to be factually correct and stands substantially contradicted by letter dated 23rd February, 2015 sent by Sahara Indian Financial Corporation Limited to Reserve Bank of India. He further states that although a sum of Rs.484.67 crores has transferred to Sahara India a Partnership Firm but the same is not a loan as alleged. The amount in-question has been transferred to the said partnership firm for repayment to the

depositors/investors and has been utilised for that purpose. He submits that Saharas have no objection to Reserve Bank of India being given the liberty to initiate whatever proceedings it proposes to start but seeks time to explain to this Court the alleged violation of the order of this Court dated 4th June, 2014 by which the entire maturity value/sale consideration of the security had to be deposited in the "SEBI Sahara Refund Account" only.

In the circumstances, we allow Reserve Bank of India to initiate such action as may be otherwise legally permissible under the provisions of the Reserve Bank of India Act and the Regulations framed thereunder and to pass appropriate orders on the subject after hearing the parties. A copy of the order so passed shall be placed on record.

Mr. Ganesh may also in the meantime file an affidavit explaining the circumstances in which the securities in-question which were allowed to be encashed/sold were sold and the maturity value/sale consideration thereof transferred to Sahara India instead of being deposited in the "SEBI Sahara Refund Account" as directed by this Court. The affidavit, to be filed by Mr. Ganesh, shall also indicate whether the disbursements have been made to the depositors/investors in cash or by cheques and whether the identity of the recipients has been established before making all such disbursements. The information relating to disbursement made by Sahara India Financial Corporation Limited to the investors/depositors shall also be placed on record in the form of a DVD/CD with

copies to M/s. Parag P. Tripathy, Arvind P. Datar and Shekhar Naphade.

In the light of the controversy raised before us in relation to the utilisation of the maturity amount/sale value of the "directed securities", we deem it fit to direct that the Saharas will not transfer, alienate or encumber the remaining "directed securities" if any provided by Sahara India Financial Corporation Limited (SIFCL).

I.As. No.47-49 of 2015:

Issue notice to counsel opposite. Objection, if any, be filed within two weeks from today.

Post on Friday, the 13th March, 2015 at 2 p.m.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER