

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  
RECORD OF PROCEEDINGS

CONMT.PET.(C) Nos.1820-1822/2017 in CONMT.PET.(C) No.413/2012 In  
C.A. No.9833/2011

SECURITIES AND EXCHANGE BOARD OF INDIA

Petitioner(s)

VERSUS

SUBRATA ROY SAHARA AND ORS. & ORS.

Respondent(s)

(With appln.(s) for directions, extension of time of payment,  
impleadment and clarification/direction and intervention/  
impleadment)

WITH M.A. Nos.1364-1365/2017 in C.A. No.9813/2011 (XVII)  
(With appln.(s) for appropriate orders/directions)

Date : 19-04-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE A.K. SIKRI

Mr. Shekhar Naphade, 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.  
Mr. Purushottam Kumar Jha, Adv.  
Mr. Anuj Sarma, Adv.  
Ms. Niharika, Adv.  
Ms. Kanika Kalaiyarasan, Adv.  
M/s. K J John And Co.

Mr. Darius Khambhatta, Sr. Adv.  
Mr. Rashmikant, Adv.  
Mr. Aniruddha P. Mayee, AOR  
Mr. Chirag Jain, Adv.  
Mr. Avnish M. Ola, Adv.

For Respondent(s) Mr. Vikas Singh, Sr. Adv.  
Mr. Gautam Awasthi, AOR

Mr. Simranjeet Singh, Adv.  
Ms. Deepika, Adv.  
Mr. Ahyush Choudhary, Adv.  
Mr. Tushar Gupta, Adv.  
Mr. Rahul Tripathi, Adv.  
Mr. Vijay Kumar, Adv.  
Mr. Ram Sajan Yadav, Adv.  
Mr. Devanshu Yadav, Adv.  
Ms. Mahima Deepak, Adv.

Mr. Shyam Divan, Sr. Adv.  
Mr. Kunal Cheema, AOR  
Mr. Apoorv Shukla, Adv.

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

Mr. Shyam Divan, Sr. Adv.  
Mr. Anush Raajan V., Adv.  
Ms. Alya Khan, Adv.

Ms. V. Lakshmi Menon, Adv.  
Mr. Vinod Kapoor, Adv.

Mr. Manoj K. Mishra, Adv.  
Mr. Umesh Dubey, Adv.  
Mr. Sandeep Kumar Dwivedi, Adv.

Mr. Mohan Parasharan, Sr. Adv.  
Mr. Vishnu Sharma, Adv.  
Ms. Anupama Sharma, Adv.  
Ms. Sonali Negi, Adv.

Mr. Rana Mukherjee, Sr. Adv.  
Mr. D.L. Chidananda, Adv.  
Ms. Sadhana Sandhu, Adv.  
Mrs. Anil Katiyar, Adv.  
Mr. M.K. Maroria, Adv.

Mr. Parag P. Tripathi, Sr. Adv.  
Mr. Paras Kuhad, Sr. Adv.  
Mr. E.C. Agrawala, Adv.

Mr. Mohan Babu Agarwal, Adv.  
Celeste Agarwal, Adv.

Mr. Ramesh Babu MR, Adv.  
Ms. Manisha Singh, Adv.  
Ms. Swati Setia, Adv.

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

In pursuance of our order dated 7<sup>th</sup> February, 2018, two reports have been filed, one by the Official Liquidator and the other by the Court Receiver.

Mr. Darius Khambhatta, learned senior counsel appearing for the Court Receiver and the Official Liquidator has filed a note of submissions. We have been apprised by Mr. Khambhatta that the architect has carved out five parcels of property in the Aamby Valley City. The valuation report has been submitted before the learned Company Judge, which has not yet been opened. An advertisement has been issued fixing the last date for submitting the bid 31<sup>st</sup> May, 2018 and the auction is to be held on 2<sup>nd</sup> June, 2018. Mr. Khambhatta would submit that the receipt of the bid commences on 21<sup>st</sup> May and ends on 31<sup>st</sup> May, 2018.

Mr. Khambhatta further submitted that certain directions are required to be passed by this Court so that the statutory benefits which are available to all parcels of the lands and even in the entirety should be made applicable to all parcels of lands so that there will be no difficulty for sale of the lands.

Another aspect which has been highlighted by Mr. Khambhatta is with regard to the maintenance of the lands, buildings and the villas. It is submitted by him that the Court Receiver is not able to collect the money and, therefore, this Court should direct the Court Receiver to collect the money from the lessees and villa owners on account of maintenance charges and other revenue generation dues.

When we are proceeding with the matter in this

manner, Mr. Vikas Singh, learned senior counsel appearing for the respondent-contemnor, submitted that the contemnor may be given one opportunity to sell portions of Aamby Valley properties. This kind of an offer had been made on a number of occasions and never remained fruitful, though such an offer was never made in respect of the Aamby Valley City project.

On a query being made, Mr. Shekhar Naphade, learned senior counsel, who was appointed as Amicus Curiae to assist the Court, would submit that possibly it would be difficult to get out of Hill City Regulations and other statutory provisions and sale may take quite a long time. Therefore, there is no harm in giving one chance to the contemnor. Mr. Arvind P. Datar, learned senior counsel appearing for the SEBI also agrees for this course of action, with certain conditions.

Mr. Vikas Singh has suggested that if the respondent-contemnor is allowed to sell certain lands and properties from any one parcel of the property, the contemnor may be able to fetch the money. He has also suggested that it can be done under the supervision of the learned Company Judge and Justice A.S. Oka. Mr. Singh also submitted that the respondent-contemnor may be allowed to carry out the maintenance and the maintenance and other charges can be collected by the Court Receiver only.

On being asked, Mr. Khambhatta, learned senior counsel appearing for the Court Receiver, submitted that in all possibility, there will be no difficulty if certain lands and properties from any one particular parcel, as has been identified by the architect and put up on the website, are sold by the respondent-contemnor. We, accordingly, allow the contemnor to sell the portions of one particular parcel, which shall be chosen in consultation with the Architect,

the Official Liquidator and the Court Receiver. At the time of the sale, the Official Liquidator and the Court Receiver shall remain present and the money collected from the sale shall be deposited in the SEBI Sahara Refund Account. The learned Company Judge and Justice A.S. Oka shall also be apprised of the same.

The sale permission, in the aforesaid manner, is given upto 15<sup>th</sup> May, 2018. The amount realized from these sales shall be deposited forthwith in the SEBI Sahara Refund Account.

Bids, pursuant to public notice for auction, are to be submitted between 21<sup>st</sup> May and 31<sup>st</sup> May, 2018. Depending on the outcome of the permission of sale given to the contemnor, further orders would be passed in this behalf. We make it clear that if the contemnor fails in attempt or is not able to realize substantial amounts from sale, the auction shall proceed as had been directed earlier.

As far as the maintenance is concerned, the respondent-contemnor can start the maintenance and on commencement of maintenance, he can inform the Court Receiver and, thereafter, the Court Receiver can collect the amount from the property owners and pay it to the contemnor. We may hasten to add that when we say 'maintenance', it singularly means maintenance and it has nothing to do with any kind of revenue generation facet.

As far as the movable properties are concerned, it is open to the respondent-contemnor to make an offer before the learned Company Judge, who shall make a decision in that regard.

Let the matter be listed at 3.00 p.m. on 16<sup>th</sup> May,

**2018.**

**(Chetan Kumar)  
Court Master**

**(H.S. Parasher)  
Assistant Registrar**