

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.83-85/2015,104-106/2015, 131/2015, 158-160/2016,
180-182/2016, 190-191/2016, 194-195/2016, 205-207/2016, 208/2016,
209-210/2016, 211/2016,212-214/2016, 218-220/2016,
227/2016,231/2016, 232/2016, 239/2016, 240/2016, 241/2016,
242/2016, 243/2016 & 244-246/2016, 247/2017, 251-252, 253-255,
256, 257-259, 260-262/2017, 268-270/2017, 273-274/2017,
280-282/2017, 284-286/2017, 47133 & 47681/2017

In

CONMT.PET. (C) Nos.412 & 413/2012

In

C.A. Nos.9813 & 9833/2011

And

C.P. (C) No.260/2013 in C.A. No.8643/2012

S.E.B.I.

Petitioner(s)

VERSUS

SAHARA INDIA REAL ESTATE CORPORATION LTD.
& ORS.

Respondent(s)

(Appln.(s) for intervention, clarification/direction, permission to place on record subsequent facts and for appropriate orders/directions)

WITH R.P. (Crl.) No.458/2014 in W.P. (Crl.) No.57/2014

Date: 19/06/2017 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE RANJAN GOGOI

Mr. Shekhar Napahade, Sr. Adv. (A.C.) (N/P)

For Petitioner(s) Mr. Arvind P. Datar, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Anuj Sarma, Adv.

Ms. Niharika, Adv.
Ms. Kanika Kalayarasan, Adv.
for M/s. K. J. John & Co.

RP(Crl.) 458/14

Mr. Gautam Awasthi, AOR

For Respondent(s)

Mr. Kapil Sibal, Sr. Adv.
Mr. Salman Khurshid, Sr. Adv.
Mr. Gautam Awasthi, AOR
Mr. Ayush Choudhary, Adv.
Mr. Tushar Gupta, Adv.
Mr. Simaranjeet Singh, Adv.
Mr. Rahul Tripathi, Adv.
Mr. Zafar Khurshid, Adv.
Mr. Ram Sajan Yadav, Adv.
Mr. Vijay Kumar, Adv.
Ms. Geetanjali Kapur, Adv.
Mr. Aditya Chopra, Adv.
Mr. Sarthak Nayak, Adv.

Mr. Prashant Kumar, AOR

Mr. Ramesh Babu M. R., AOR
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Mrs. Anil Katiyar, AOR

Mr. Rakesh Kr. Sharma, AOR

Mr. Amit Anand Tiwari, AOR

Mr. Yash Pal Dhingra, AOR

Mr. P.N. Puri, AOR

Mr. Biswajeet Bhattachary, Sr. Adv.
Mr. Pawan Upadhyay, Adv.
Mr. Akash Tyagi, Adv.
Ms. Sharmila Upadhyay, AOR

Mr. Saiby Jose K., Adv.
Mr. C.K. Sasi, AOR

Mr. Mahalakshmi Pavani, Sr. Adv.
Mr. P. Soma Sundaram, Adv.
Mr. G. Sivabalamurugan, AOR

Ms. Vandana Sehgal, AOR

Mr. D.L. Chidananda, Adv.
Mr. A.K. Srivastava, Adv.
Ms. Sadhana Sandhu, Adv.
Mr. M.K. Maroria, Adv.
Mrs. Anil Katiyar, Adv.
Ms. Sushma Manchanda, Adv.
Mr. B.K. Prasad, AOR

Mr. Ankur S. Kulkarni, AOR

Mr. Anupam Lal Das, AOR

Mr. Prashant Choudhary, AOR

Mr. Sanjeev Agarwal, AOR

Mr. Mohit D. Ram, AOR

Mr. Vishwa Pal Singh, AOR

Mrs. Shally Bhasin, AOR

Mr. Kaushik Anand Satpathy, Adv.
Ms. Vidhi Goel, Adv.

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

I.A. No.47681 of 2017

This is an application seeking certain directions. The directions that have been sought by the contemnor in this interlocutory application read as follows:-

"(i) grant an extension of 10 working days for complying with the undertaking dated 27.04.2017;

(ii) pass an order permitting the sale of Grosvenor House Hotel, i.e. by transfer of shares of the company to the buyer and to enter into the

agreement for refinancing facility in respect of the Plaza Hotel and the Dreams Downtown Hotel, New York;

(iii) permit Saharas to sale their lands at the price less than 90% of circle rate, in order to comply the directions of this Hon'ble Court;

(iv) accept the properties of Saharas as a security for the balance principal amount instead of cash deposit; and

(v) to vacate the order dated 21.11.2013 passed by this Hon'ble Court, lifting the embargoes on the Sahara Group of Companies, so that Saharas can raise money out of their assets and run, promote their businesses, in the interest of justice, equity and fair play.

Be it noted, on the previous occasion, i.e. 27th April, 2017, the contemnor had furnished two post-dated cheques, one dated 15th June, 2017, for Rs.1500,00,00,000/- (Rupees fifteen hundred crores only) and the second one dated 15th July, 2017, for a sum of Rs.552,21,00,000/- (Rupees five hundred fifty-two crores and twenty-one lakhs only). An assurance was given by Mr. Kapil Sibal, learned senior counsel appearing for the petitioner, as well as by the contemnor, who was present in the Court, that the cheques shall be honoured. It was directed that if there will be a failure, the contemnor may be sent to custody. It is submitted by Mr. Sibal relying on the application filed by the contemnor that till today they have deposited Rs.774 crores in SEBI Sahara Refund Account and today he has handed

over eighteen demand drafts amounting to Rs.16,11,95,000/- (Rupees sixteen crores eleven lakhs and ninety-five thousand) in favour of SEBI Sahara Refund Account. The total amount that has been deposited in SEBI Sahara Refund Account comes to Rs.790.18 crores. Thus, the balance sum to be paid is Rs.709.82 crores.

At this juncture, it is submitted by Mr. Sibal, learned senior counsel that there is a property situate in villages Bahadrabad and Ranipur, Haridwar in the State of Uttarakhand, admeasuring 87.03 acres and he has arranged a buyer, who is prepared to purchase the said property for Rs.109.75 crores. The said amount is 62% of the circle rate and, thereby, less than 38% of the circle rate. Permission is sought to sell the property at that rate. As advised at present, we are not inclined to grant the said permission. We think that the said property shall be put to public auction by S.E.B.I with the assistance of approved agency. In the bid, S.E.B.I. can mention 90% of the circle rate, as some time this Court had permitted at that rate. The auction shall be conducted by the competent authority of S.E.B.I. through the approved agency on or before 5th July, 2017. Needless to say, e-auction can be done in respect of this property.

As the contemnor has deposited Rs.790.18 crores, we are inclined to extend the time by ten working days so that the undertaking can be complied with. The balance amount i.e. Rs.709.82 crores shall be deposited with the SEBI Sahara Refund Account by 4th July, 2017.

The prayer No.(ii) in the interlocutory application relates to grant of permission for sale of Grosvenor House Hotel, i.e. by transfer of shares of the company to the buyer

i.e. GH Equity U.K. Limited. Mr. Arvind P. Datar, learned senior counsel appearing for the S.E.B.I. has no objection if such permission is granted. The permission is, accordingly, granted.

As far as prayer No.(iii) is concerned, we have already directed for auction of the property. Therefore, no further order need be passed on the said prayer.

As far as the prayer Nos.(iv) and (v) are concerned, we are not inclined to pass any order thereon and, accordingly, they are rejected at this stage.

At this juncture, it is necessary to note that we had directed the Official Liquidator of the High Court of Bombay to proceed with the drafting of terms and conditions of sale notice for the Amby Valley property. Mr. Vinod Sharma, Official Liquidator submits that the terms and conditions have been scrutinized by Justice B.N. Agarwal, formerly a Judge of this Court, who has been nominated to supervise the refund process. A copy of the terms and conditions be handed over to the learned counsel for the contemnor. The original terms and conditions of the sale notice which have been filed in the Court be taken on record. Be it stated, the said documents have been filed with the report of the Official Liquidator being O.L.R. No.122 of 2017. The prayer for approval of the terms and conditions of sale notice shall be considered on the next date of hearing.

Let the matter be listed at 3.30 p.m. on 5th July, 2017. If the balance amount is not paid by that date, we will be compelled to send the contemnor to the custody and we are sure he shall not give rise to such an occasion.

The interim order passed on the earlier occasion to continue till the next date of hearing.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master