

ITEM NO.303

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, 247/2016, 251-252, 253-255, 256, 257-259 & 260-262/2017

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 CORPN.LTD.&ORS.

Respondent(s)

(For directions, impleadment and intervention, appropriate orders and provisional release and office report)

Date: 06/02/2017 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE RANJAN GOGOI  
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. Pratap Venugopal, Sr. Adv.  
Ms. Surekha Raman, Adv.  
Mr. Anuj Sarma, Adv.  
Mr. Debarshi Bhuyan, Adv.  
Ms. Niharika, Adv.  
Mr. Aman Shukla, Adv.  
Ms. Kanika Kalaiyarasan, Adv.  
for M/s. K. J. John & Co.

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.  
Mr. Narendra Hooda, Sr. Adv.  
Mr. Sanjiv Sen, Sr. Adv.

Mr. Gautam Awasthi, AOR  
Mr. G. Bhatia, Adv.  
Mr. Ayush Choudhary, Adv.  
Mr. Nijam Pasha, Adv.  
Mr. Aarohi Bhalla, Adv.  
Mr. Rahul Tripathi, Adv.  
Mr. Nikhil Jain, Adv.  
Mr. Simranjeet Singh, Adv.  
Mr. Gautam Talukdar, Adv.  
Mr. Tushar Gupta, Adv.  
Mr. Ram Sajan Yadav, Adv.  
Mr. Vijay Kumar, Adv.  
Mr. Sarthak Nayak, Adv.  
Ms. Nida Doon, Adv.

Mr. Gaurav Kejriwal, AOR

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

Mr. Rana Mukherjee, Sr. Adv.  
Mr. D.L. Chidanand, Adv.  
Ms. Sadhna Sandhu, Adv.  
Mr. Rajat Nair, Adv.  
Mr. M.K. Maroria, Adv.  
Mr. P.K. Gautam, Adv.  
Mrs. Anil Katiyar, AOR

Mr. Rakesh Kr. Sharma, AOR

Mr. Amit Anand Tiwari, AOR

Mr. Yash Pal Dhingra, AOR

Mr. P.N. Puri, AOR

Ms. Sharmila Upadhyay, AOR

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

Mr. G. Sivabalamurugan, AOR

Ms. Vandana Sehgal, AOR  
Mr. Anand Daga, Adv.

Mr. Maninder Singh, ASG  
Mr. D.L. Chidananda, Adv.  
Mr. A.K. Srivastava, Adv.  
Ms. Sushma Manchanda, Adv.

Mr. Manoj Singh, Adv.  
Mr. B.K. Prasad, AOR

Mr. Ankur S. Kulkarni, AOR

Mr. Anupam Lal Das, AOR

Mr. Anish Maheshwari, Adv.  
Ms. Farha Malik, Adv.  
Ms. Rajeeta Raj, Adv.  
Mr. Prashant Choudhary, AOR

Mr. Yunus Malik, Adv.  
Mr. Sanjeev Agarwal, AOR

Ms. Meenakshi Arora, Sr. Adv.  
Mr. Hursh Jani, Adv.  
Ms. Monisha Handa, Adv.  
Mr. Mohit D. Ram, AOR

Mr. Balbir Singh, Sr. Adv.  
Mr. Rabin Majumder, Adv.  
Mr. Sandeep Bajaj, Adv.  
Mr. Aditya Chopra, Adv.  
Ms. Nishtha, Adv.

Mr. Jayant Bhushan, Sr. Adv.  
Ms. Vidhi Goel, Adv.  
Ms. Shagun, Adv.

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

On 12<sup>th</sup> January, 2017, this Court, after referring to the earlier order dated 28<sup>th</sup> November, 2016, dismissed the application for extension of time to deposit Rs.600 crores. Be it noted, on that day, it was submitted by Mr. Kapil Sibal, learned senior counsel appearing for the contemnors that they may be permitted to transfer thirty-five million pounds equivalent to Rs.285 crores (Rupees two hundred eighty-five crores only) lying in Saharas account in London bank. After hearing Mr. Arvind P. Datar, learned senior counsel for the SEBI and Mr. Rana Mukherjee, learned senior counsel appearing for the Union of India, this Court granted

the permission. In pursuance of the aforesaid order, Rs.295 crores (Rupees two hundred ninety-five crores only) has been transferred which is equivalent to thirty-five million pounds.

Today, Mr. Kapil Sibal, learned senior counsel being assisted by Mr. Gautam Awasthi, learned counsel for the contemnors, has handed over ten bank drafts amounting to Rs.2,862,750,000/- to Mr. Pratap Venugopal, learned counsel appearing for the SEBI. That apart, two deposit slips have also been handed over to the learned counsel for the SEBI. In essence, the order passed on 28<sup>th</sup> November, 2016, stands complied with.

The question that emerges for consideration is with regard to payment of entire principal sum. The issue of amount of interest shall be adverted to after deposit of the principal amount. Mr. Sibal, learned senior counsel has given a road map stating, *inter alia*, that the principal amount shall be cleared by end of July, 2019.

It is apt to note here that the learned counsel appearing for the SEBI has filed an application for attachment of properties of the contemnors.

Having heard learned counsel for the parties, as advised at present, we direct that the contemnors shall file a list of properties that can be put to public auction. Needless to emphasize that the properties suggested for public auction shall be free from any encumbrance. Needless to say, "any encumbrance" means it shall not be encumbered in any manner whatsoever. The said list be positively filed on or before 27<sup>th</sup> February, 2017, after giving a copy to the learned counsel for SEBI and Mr. Shekhar Naphade, learned Amicus Curiae. A copy of the same shall also be handed over

to Mr. Maninder Singh, learned Additional Solicitor General and Mr. Rana Mukherjee, learned senior counsel appearing for the Union of India.

At this stage, it is obligatory to note, as submitted by Mr. Pratap Venugopal, learned counsel appearing for SEBI, which has been echoed in similar voice by Mr. Naphade, learned Amicus Curiae, that the contemnors who own a property situate at Aamby Valley City, Pune, Maharashtra, would be sufficient for realization of the whole amount. Mr. Venugopal, insisted that the property should be attached so that the contemnors shall make all endeavour to deposit the amount with SEBI. The said submission is seriously opposed by Mr. Sibal, learned senior counsel for the contemnors.

Having heard learned counsel for the parties, we are of the convinced opinion that the property situated at Aamby Valley City, Pune, should be attached and, accordingly, it is so ordered.

The interim arrangement shall remain in force till the next date of hearing.

Let the matter be listed at 2.00 p.m. on 27<sup>th</sup> February, 2017.

All the interlocutory applications shall be considered after the said date.

(Chetan Kumar)  
Court Master

(Shakti Parkash Sharma)  
Court Master