

(2014) 03 SC CK 0104

In the Supreme Court Of India

Case No : Compt. Pet. (C) No. 412 of 2012 in C.A. No. 9813 of 2011, Compt. Pet. (C) No. 413 of 2012 in C.A. No. 9833 of 2011, I.A. Nos. 68-73 and 76-95 in C.A. No. 9813 of 2011, I.A. No. 1 in Compt. Pet. (C) No.... in C.A. No. 9813 of 2011 and Compt. Pet. (C) No. 2

S.E.B.I.

APPELLANT

Vs

Sahara India Real Estate Corp. Ltd. and Others

RESPONDENT

Date of Decision : 04-03-2014

Acts Referred:

Constitution of India, 1950 — Article 129, 142

Citation : (2014) 3 SCALE 300 : (2014) 125 SCL 230

Hon'ble Judges : K.S. Panicker Radhakrishnan, J;J.S. Khehar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Contemnors are personally present in the Court, including the fifth Respondent, who has been brought to the Court by the U.P. Police, in due execution of our non-bailable warrant of arrest. We have heard the senior counsel on various occasions and perused the various documents, affidavits, etc. We have heard the learned Counsel and contemnors today as well. We are fully convinced that the contemnors have not complied with our directions contained in the judgment dated August 31, 2012, as well as orders dated December 05, 2012 and February 25, 2013 passed in Civil Appeal No. 8643 of 2012 and I.A. No. 67 of 2013 by a three Judge Bench of this Court.

2. Sufficient opportunities have been given to the contemnors to fully comply with those orders and purge the contempt committed by them but, rather than availing of the same, they have adopted various dilatory tactics to delay the implementation of the orders of this Court. Non-compliance of the orders passed by this Court shakes the very foundation of our judicial system and undermines the rule of law, which we are bound to honour and protect. This is essential to maintain faith and confidence of the people of this country in the judiciary.

3. We have found that the contemnors have maintained an unreasonable stand throughout the proceedings before SEBI, SAT, High Court and even before this Court. Reports/analysis filed by SEBI on 18.02.2014 make detailed reference to the submissions, documents, etc. furnished by the contemnors, which indicates that they are filing and making unacceptable statements and affidavits all through and even in the contempt proceedings. Documents and affidavits produced by the contemnors themselves would apparently falsify their refund theory and cast serious doubts about the existence of the so-called investors. All the fact finding authorities have opined that majority of investors do not exist. Preservation of market integrity is extremely important for economic growth of this country and for national interest. Maintaining investors' confidence requires market integrity and control of market abuse. Market abuse is a serious financial crime which undermines the very financial structure of this country and will make imbalance in wealth between haves and have nots.

4. We notice, on this day also, no proposal is forthcoming to honour the judgment of this Court dated 31st August, 2012 and the orders passed by this Court on December 05, 2012 and February 25, 2013 by the three Judge Bench. In such circumstances, in exercise of the powers conferred Under Articles 129 and 142 of the Constitution of India, we order detention of all the contemnors, except Mrs. Vandana Bhargava (the fourth Respondent) and send them to judicial custody at Delhi, till the next date of hearing. This concession is being extended towards the fourth Respondent because she is a woman Director, and also, to enable the contemnors to be in a position to propose an acceptable solution for execution of our orders, by coordinating with the detenues. Mrs. Vandana Bhargava, who herself is one of the Directors, is permitted to be in touch with the rest of the contemnors and submit an acceptable proposal arrived at during their detention, so that the Court can pass appropriate orders. List on March 11, 2014 at 2.00 p.m. All the contemnors be produced in Court on that date. Mrs. Vandana Bhargava, the fourth Respondent, to appear on her own. However, liberty is granted for mentioning the matters for preponement of the date, if a concrete and acceptable proposal can be offered in the meantime.