
(2016) 02 SC CK 0024

In the Supreme Court Of India

Case No : I.A. Nos. 90-91 of 2014, 104-106 of 2015, 119-121 of 2015, 144-146 of 2016, 132-134 of 2015, 135-137 of 2015, 138-140 of 2016, 141-143 of 2016 & 131 of 2015 in Conmt.Pet.(C) No. 412 & 413 of 2012 In C.A. No. 9813 & 9833 of 2011

S.E.B.I.

APPELLANT

Vs

Sahara India Real Estate Corpn. Ltd. & Ors.

RESPONDENT

Date of Decision : 02-02-2016

Acts Referred:

Contempt of Courts Act, 1971 — Section 2(b)

Citation : (2016) 13 SCC 768

Hon'ble Judges : T.S. Thakur, CJI; Anil R. Dave; A.K. Sikri, JJ.

Bench : Full Bench

Advocate : Kapil Sibal, Sr. Adv, Gautam Awasthi, Nikhil Jain, Ayush Choudhary, Ms. Preeti Singh, Nijam Pasha, Simranjeet Singh, Rahul Tripathi, Vijay Kumar, Abhinav Tripathi, R.S. Yadav, Manoj V. George, Siju Thomas, Ms. Shilpa M. George, Rohit Adlakha, Towseef Ahmad Dar, Gaurav Kajriwal, Keshav Mohan, Surjit Keshri, Parag Tripathi, Sr. Adv, Ramesh Babu M.R, Ms. Swati Setia, Ramesh Babu, Ms. Pinky Anand, ASG, Karan Seth, Rishabh Jain, Ms. Saudamini Sharma, Mr. Sanchit Kumar, G.K Kumar, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

I.A. No.77-79 of 2015

1. Taken on Board.

2. By our order dated 03.08.2015 we had directed Mr. Gairi Shankar Singh, Director and authorized representative of M/s Divine Infra Solutions Pvt. Ltd. to remain present in this Court on the next date of hearing. Despite the said direction he is not present today. Though no reply seems to have been filed on behalf of Divine Infra Solutions Pvt. Ltd., learned counsel for the company submits that a reply has already been filed. The Office is directed to locate and place the same on record. Mr. Gauri Shankar Singh shall remain present in person on the next date of hearing to show cause why he should not be

proceeded against for breach of the undertaking dated 08.01.2015 furnished by him to this Court.

3. Mr. Gairi Shankar Singh shall all the same have the liberty of making the deposit in terms of the undertaking furnished on or before next date of hearing.

List I.A. No.77-79 of 2015 on 29.03.2016 at 2.00 p.m.

I.A. No.89-91/2015

Taken on Board.

Issue notice to Divine Infra Solutions Pvt. Ltd.

4. Mr. S.S. Ray, learned counsel accepts notice on behalf of the said respondent. He shall file his objection to the applications within two weeks. List I.A. No.89-91/2015 along with connected applications on 29.03.2016 at 2.00 p.m.

I.A. No.135-137/2015

Issue notice.

5. Mr. Gaurav Agrawal, learned counsel accepts notice on behalf of the respondents. He may file reply to these applications within two weeks.

I.A. No.119-121 of 2015

Learned counsel for the Saharas and SEBI shall file their reply to these applications within two weeks.

6. List I.A. No.119-121 of 2015 along with other connected applications on 29.03.2016 at 2.00 p.m.

I.A. No.138-140/2015

Mr. Kapil Sibal, learned senior counsel seeks permission to sell certain items of property including four aircrafts which the group companies owned details whereof are given in para 3 of the applications.

7. Mr. Venugopal, learned counsel for SEBI and Mr. Shekhar Napahade, learned amicus curiae may file their objections to these applications within two weeks.

8. List I.A. No.138-140/2015 along with connected applications on 29.03.2016 at 2.00 p.m.

I.A. No.104-106/2016

List applications for appointment of Receiver along with I.A. No.83-85/2015 for final hearing on 29.03.2016 at 2.00 p.m.

I.A. No.90-91 of 2014

Heard.

9. For the reasons stated in the applications and the additional affidavit filed by

SEBI, we direct that a sum of Rs.41,44,76,410/- shall be reimbursed to SEBI towards the expenditure incurred by SEBI on various items as set out in the additional affidavit upto 28.05.2015. The reimbursement shall be out of the interest amount earned by the deposit made in SEBI Sahara Account. The adjustment shall be without prejudice to Sahara's right to seek refund if any in accordance with law.

I.A. Nos.90-91 of 2014 are accordingly disposed of.

10. Mr. Kapil Sibal, learned senior counsel submits that since the entire record filed by Saharas has been digitized the original documents can be returned to Saharas not only to keep them in safe custody but also to avoid the recurring expenditure which SEBI is incurring towards rent of the storage facility hired by it.

11. Mr. Arvind Datar, learned senior counsel appearing for SEBI submits that he has no objection to the return of the documents provided they are kept in safe custody under double locking system by SEBI and Saharas.

12. Mr. Kapil Sibal, learned senior counsel agrees to approach SEBI with the requisite details of the storage facility where Saharas would like the record to be shifted for storage purposes. Once SEBI is satisfied with the storage facility it shall be free to transfer the records to any such facility to be retained under double lock of SEBI and Saharas. Transportation/Shifting of the record with the new storage facility shall be by Saharas. In case SEBI is called upon to do so expenditure so incurred on transportation/shifting shall be reimbursed to SEBI out of the interest earned by the deposit made by Saharas.

13. Mr. Arvind Datar submits that SEBI will have no difficulty in providing to Saharas a copy of the additional record at the expense of Saharas.

14.The needful shall be done within six weeks.

15. List the matter again on 29.03.2016 at 2.00 p.m.