
(2016) 05 SC CK 0111

In the Supreme Court Of India

Case No : I.As. No. 180-182 in CONMT. PET.(C) No. 412 & 413 of 2012 in C.A. No. 9813 and 9833 of 2011 and Contempt Petition(C) No. 260 of 2013 in Civil Appeal No. 8643 of 2012

S.E.B.I.

APPELLANT

Vs

Sahara India Real Estate Corpn. Ltd. & Others

RESPONDENT

Date of Decision : 06-05-2016

Acts Referred:

Citation : (2016) 5 Scale 212 : (2016) 15 SCC 341

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

Bench : Full Bench

Advocate : Arvind P. Datar, Sr. Advocate, Pratap Venugopal, Ms. Surekha Raman, Purushottam Kumar Jha, Ms. Niharika, Aman Shukla, M/s. K.J. John & Co., Advocates, for the Appellant; Kapil Sibal, Sr. Advocate Applicants Dr. Rajeev Dhawan, Sr. Advocate, Gautam Awasthi, Nikhil Jain, Ayush Chaudhary, Ms. Preeti Singh, Abhinav Mani Tripathi, Nijam Pasha, Salim Inamdar, Rahul Tripathi, Simranjeet Singh, Gautam Talukdar, Kumar Ayush, Vijay Kumar, R.S. Yadav, Amit Srivastava, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. These applications have been filed by Mr. Subrata Roy Sahara and Mr. Ashok Roy Choudhary presently lodged in the Tihar jail seeking provisional/temporary release of the applicants from custody for a period of three weeks on such terms and conditions as may be stipulated by this Court to enable them to perform the funeral and other rites of late Smt. Chhabi Roy, mother of Mr. Subrata Roy Sahara.

2. Mr. Kapil Sibal, learned senior counsel appearing for the applicants, submits that Smt. Chhabi Roy, mother of the applicant-Subrata Roy Sahara aged about 95 years old and ailing for some time, has passed away today at about 1.30 a.m. He submits that the applicants are required to perform the last rites of the deceased and other ceremonies connected therewith. He submits that the applicants could be permitted to do so on such terms and conditions as this

Court may deem fit and proper.

3. Mr. Arvind Datar, learned senior counsel appearing for SEBI fairly concedes that in the light of the bereavement in the family, the applicants' prayer for temporary release from jail could be considered on suitable terms and conditions to be stipulated by this Court.

4. In the circumstances, therefore, and having regard to the submissions made at the Bar, we direct that the applicants, Mr. Subrata Roy Sahara and Ashok Roy Choudhary, presently lodged in Tihar jail in Delhi shall be released from the jail temporarily for a period of four weeks to enable them to visit Lucknow for performing the last rites of late Smt. Chabbi Roy and to visit Haridwar and Ganga Sagar for such rites and ceremonies. The release of the applicants from Tihar jail shall however be subject to the following conditions:

1) The applicants shall be under protective custody and shall be escorted during their period outside the jail by a team of police officials to be deputed by the Commissioner of Police, Delhi, headed by an officer not less below the rank of Sub-Inspector of Police.

2) The police officials escorting the applicants during the period they are outside the jail shall be in plain clothes. The applicants shall not be hand-cuffed at any point of time.

3) The police officials escorting the applicants shall report their presence to the jurisdictional police station concerned where the applicants are taken in which event the jurisdictional police station concerned shall at all times provide all such help and support to the escort team as may be necessary.

4) Upon expiry of the period of four weeks from today, the escort team shall lodge the applicants back into Tihar jail. The applicants shall offer no resistance to that course and shall obey the escort team without demur.

5) The cost including travel, salary and other emoluments of the team deputed to escort the applicants shall be borne by the applicants-Saharas.

6) The Commissioner of Police, Delhi, shall be free to raise a suitable bill to SEBI to be paid out of SEBI Sahara Refund Account. Mr. Sibal assures the Court that the applicants shall at no point of time make any attempt to either escape from the protective custody of the escort team or otherwise leave the country especially when their passports are already deposited with competent authority.

5. The Registry shall forthwith convey this order to the Commissioner of Police, Delhi, as also to the Superintendent of Tihar Jail for compliance.