Delhi HC orders forensic audit of Fortis, IHH and RHT transactions in $4.6-billion Daiichi-Singh case

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Synopsis

The Delhi High Court on Monday ordered the appointment of a forensic auditor to examine transactions involving Fortis Healthcare, Malaysia's IHH Healthcare and Singapore's RHT Health Trust, in a case linked to a $4.6-billion arbitration award won by Daiichi Sankyo against Malvinder and Shivinder Singh.

The Delhi High Court on Monday directed the appointment of a forensic auditor to examine transactions involving Fortis Healthcare (FHL), Malaysia's IHH Healthcare Berhad and Singapore's RHT Health Trust, in a case linked to a $4.6-billion arbitration award won by Japanese pharma major Daiichi Sankyo against Malvinder and Shivinder Singh back in 2008.

Daiichi had sought the appointment of a forensic auditor to investigate the transactions and any nexus between RHT, the former FHL promoters and others, following directions issued by the Supreme Court on September 22, 2022.

The Japanese drugmaker is seeking an audit of the dilution of FHL's shareholding, alleged violations of undertakings and assurances given by the former promoters, and transactions between FHL and IHH. It has also alleged a clandestine transfer of Rs 4,666 crore to RHT Singapore.

IHH had acquired a 31% stake in Fortis Healthcare for Rs 4,000 crore in July 2018 through a bidding process.

Daiichi had also sought a forensic audit of transactions between the Singh brothers and companies belonging to the Religare Group, including Religare Capital Market, Religare Capital Market International (Mauritius), Religare Enterprises, Religare Finvest and Religare Comtrade.

In a separate application, Daiichi had asked the High Court to appoint forensic auditors to examine the conduct of 17 banks and financial institutions, including HDFC Ltd, Yes Bank, Axis Bank, Citicorp Finance, Aditya Birla Sun Life Insurance Co and Kotak Mahindra Investments.

The petition alleged that these lenders had invoked pledges on shares of FHL owned by Fortis Healthcare Holding in violation of Supreme Court and High Court orders, as well as undertakings given by the Singh brothers to the courts. It also alleged that the lenders had extended loans to loss-making entities without conducting due diligence.

Daiichi has argued that extensive forensic audits under the supervision of retired high court judges are necessary to ensure sufficient inflow of money to satisfy the arbitration award against the Singh brothers.

In September 2022, the Supreme Court had directed the Delhi High Court to consider appointing forensic auditors to examine whether transactions entered into by banks and financial institutions were bona fide. It had also said the auditors could examine transactions between Fortis Healthcare and RHT and other related transactions through which the Rs 4,000 crore received from IHH was transferred.

Daiichi had acquired Ranbaxy Laboratories from the Singh brothers in 2008. It subsequently won a Singapore arbitration award against them and has been pursuing its enforcement in Indian courts. The dispute has also extended to transactions involving Fortis Healthcare, which was formerly controlled by the Singh brothers.