

HIGH COURT OF TRIPURA
AGARTALA

FAO No.01/2021

Surface Tech. (India) Pvt. Ltd., To be represented by the Managing Director, Surface Tech. (India) Pvt. Ltd., 25, Shreemanta Market, A.T. Road, Guwahati-1, Assam, India.

.....Appellant(s)

V E R S U S

1. M/S. Mrinal Sanjib, Aitorma, Agartala Sentrum, Stall No.102, Sakuntala Road, P.S.-West Agartala, District-West Tripura. Being represented by its Partners namely Sanjib Singha Roy, S/O-Lt. Ranjit Singha Roy, R/o-Town Pratapgarh, Road No.1, Near Ramthakur Sangha, Agartala, P.S.-East Agartala, Dist.-West Tripura.

2. Sri Mrinal Kanti Das, S/o-Sri Pabitra Ranjan Das, A.D. Nagar Road No.1, P.S.-A.D. Nagar, Agartala, West Tripura, Pin-799003.

3. The Airport Director, Airport Authority of India, MBB Airport, Agartala.

4. The Airport Director, Airport Authority of India, MBB Airport, Agartala, Tripura West.

.....Respondent(s)

For Appellant(s) : Mr. P. Gautam, Advocate,
Mr. Samar Das, Advocate.

For Respondent(s) : Mr. P. Roy Barman, Sr. Advocate,
Mrs. S. Deb (Gupta), Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Ms. A. Debbarma, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

Date of hearing and Judgment : 27th March, 2023.

JUDGMENT & ORDER(ORAL)

Heard Mr. P. Gautam, learned counsel appearing for the appellant. Also heard Mr. P. Roy Barman, learned senior counsel assisted

by Mr. Samarjit Bhattacharjee, learned counsel appearing for the respondents No.1 & 2 and Mrs. S. Deb (Gupta), learned counsel appearing for the respondents No.3 & 4, Airport Authority of India.

[2] The present appeal under Order XLIII Rule 1 of the Code of Civil Procedure (CPC, for short) is directed against the order dated 06.03.2021 passed by the learned Civil Judge (Sr. Division), Court No.2, West Tripura, Agartala in Civil Misc. (Inj.) No.26 of 2020 arising out of M.S. No.19 of 2020 whereby the learned Judge allowed the injunction application filed by the plaintiff petitioners (respondents No.1 & 2 herein).

[3] The case of the appellant, in a nutshell, is that the appellant being a private company is presently carrying on construction of new isolation bay and associated link Taxi Track at MBB Airport, Agartala. The appellant issued supply order dated 01.04.2018 in favour of the respondents No.1 & 2 for supply of black graded stones. Accordingly, the respondents supplied black graded stones worth Rs.1,38,95,701/- and submitted bills in favour of the appellant. The appellant in total paid Rs.65 lakhs and unable to pay the outstanding balance of Rs.73,95,701/- within the stipulated period. Accordingly, the respondents No.1 and 2 approached the Court and learned Addl. District Judge, West Tripura, Agartala vide order dated 20.05.2020 passed in Civil Misc. (Inj.) No.03

of 2020 in Misc. Appeal No.03 of 2020 rejected the interim injunction application. The said respondents subsequently filed another application being Civil Misc. (Inj.) No.26 of 2020 arising out of M.S. No.19 of 2020 before the learned Civil Judge (Sr. Division), Court No.2, West Tripura, Agartala whereafter the learned Judge vide order dated 06.03.2021 allowed the injunction application filed by the plaintiff petitioners (respondents No.1 & 2 herein). Aggrieved thereby, the appellant has approached this Court by preferring this appeal. Hence, this case.

[4] Appellant has prayed for the following reliefs:

- "(a) Admit this appeal,
- (b) Issue notice upon the Respondents;
- (c) Call for records;
- (d) And after hearing the parties pleased to set-aside/quashing the order dated 06-03-2021 passed in Civil Misc. (Inj) 26 of 2020 arising out of MS-19 of 2020 by Ld. Civil Judge, Senior Division, Court No.-2, West Tripura, Agartala and pass such other order or orders as the Hon'ble Court may deem fit and proper for the ends of justice."

[5] Mr. P. Gautam, learned counsel appearing for the appellant contends that the learned trial Judge without appreciating the evidence on record has come to an erroneous finding by allowing the subsequent injunction application filed by the plaintiff-petitioners. Counsel also contends that the plaintiff-petitioners in the second round of litigation

before the trial Court have suppressed the fact that their earlier injunction application before the learned District Judge was rejected. Counsel further contends that the learned trial Judge while deciding the matter also did not consider the fact that the appellant receives payments of bill from the Airport Authority and if the Airport Authority is directed to stall payments of the outstanding bills, then the appellant will suffer irreparable financial loss. Counsel also contends that by virtue of the impugned order dated 06.03.2021 the Airport Authority stalled payments of outstanding bill amounting to Rs.73,95,701/- towards the appellant for which they could not make payments to the respondents No.1 and 2. Accordingly, he prays for setting aside the impugned order dated 06.03.2021 passed by the learned Civil Judge (Sr. Division), Court No.2, West Tripura, Agartala in Civil Misc. (Inj.) No.26 of 2020 arising out of M.S. No.19 of 2020.

In support of his contention, learned counsel for the appellant relied on two decision of the Hon'ble Supreme Court in the case of ***Colgate Palmolive (India) Ltd. vrs. Hindustan Lever Ltd.*** reported in (1999) 7 SCC 1 and in the case of ***Narendra Hirawat and Co. vrs. Sholay Media Entertainment Pvt. Ltd. and another*** reported in 2022 SCC OnLine SC 1878.

[6] On the other hand, Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel appearing for the

respondents No.1 & 2 has contended that already the outstanding bill amounts which are the subject matter of the present litigation have been paid by the Airport Authority to the appellant despite which the respondents No.1 and 2 are not paid their dues.

Mrs. S. Deb (Gupta), learned counsel appearing for the respondents No.3 & 4, Airport Authority of India, supporting the contention of the learned senior counsel for the respondents No.1 & 2, has categorically contended that all the bills pertaining to the appellant have been paid and there are no dues.

[7] After hearing the learned counsel for the respective parties and also having perused the documents on record, it is apparent that the learned counsel for the appellant in his submission contended that the Airport Authority has stalled the outstanding bill amounts of Rs.73 lakh and odds towards the appellant pursuant to the impugned injunction order dated 06.03.2021 but on perusal of the record, this Court nowhere finds such contention in the entire pleadings which is totally silent with regard thereto. As such, this Court is of the considered view that the learned Judge has rightly passed the impugned injunction order which needs no interference.

[8] In the result, this Court finds no merit in the instant appeal which is accordingly dismissed. The impugned order dated 06.03.2021

passed by the learned Civil Judge (Sr. Division), Court No.2, West Tripura, Agartala in Civil Misc. (Inj.) No.26 of 2020 arising out of M.S. No.19 of 2020 is confirmed.

As a sequel, the interim stay order granted earlier stands vacated.

[9] Send down the lower court records forthwith.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

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