

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

COCP no.367 of 2014(O&M)

Date of Decision :09.10.2015

IVRCL Narnaul Bhiwani Tollways Limited

....Petitioner(s)

Versus

Sh. Mahesh Kumar and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.Gourav Mohunta, and

Ms. Komal Abroal, Advocates for the petitioner

Mr. Ashok S Chaudhary, Addl. AG, Haryana

MAHESH GROVER, J.

The petitioner alleges violation of the orders passed by the Additional District Judge, Panchkula in arbitration proceedings. On 3.12.2013 the said Court had directed as below:-

“It is further directed that in case the petitioner-company fails to deposit the performance security within 60 days from today, then the department is at liberty to encash the bank guarantee of Rs.24 crores on the very next day without any order from the Court. Now file be put up on 7.2.2014 for further proceedings.”

Subsequently a review of the aforesaid order was sought by the present respondents and the Court observed as follows:-

“Thus, the notice so issued by the petitioner on 17.12.2013 does not warrant the review of the order dated 3.12.2013 as hardly anytimer is left for protection given upto 7.2.2014. Moreover, the order dated 3.12.2013 was passed with consent of both the parties.”

Learned counsel for the petitioner contends that even though it was noticed in the review order that protection is upto 7.2.2014. The respondents encashed the bank guarantee on 3.2.2014 itself thus violating the aforesaid orders and making themselves liable for contempt.

The respondents on the other hand contest the plea to contend that as per the order dated 3.12.2013 the protection was intended only for 60 days which expired on 2.2.2014 and accordingly they encashed the bank guarantee on 3.2.2014.

I have heard the arguments and considered the facts. If the order dated 3.12.2013 is to be seen then it prescribes a security of 60 days to the petitioner while adjourning the matter to 7.2.2014 and in the review order the Court notices that protection was upto 7.2.2014 which apparently seems to be an oversight as protection was only intended upto 60 days commencing from 3.12.2013. In this view of the matter, I am of the opinion that it is not a case where the respondents can be construed to have violated any terms of the order noticing the ambiguity created by the order of the Additional District Judge

Panchkula who was probably under the impression that protection is upto the next date of hearing whereas it was upto 2.2.2014. Consequently, I do not deem it to be a fit case to interfere. Hence, instant petition is hereby dismissed.

October 09, 2015
rekha

(Mahesh Grover)
Judge