

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 106 OF 2016
IN
WRIT PETITION NO.5398 OF 2015

Reliance Corporate IT Part Ltd. .. Applicant

In the matter between -

Maharashtra State Electricity
Distribution Company Limited. .. Petitioner

Vs

Reliance Corporate IT Part Ltd. and Another. .. Respondents

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Shri Pradeep Sancheti, Senior Advocate along with ms. Melanic D'Souza
i/b M/s. A.S. Dayal & Associates for the Applicant.

Ms. Deepa Chavan along with Ms. Reshma Nathani and Shri Rahul
Sinha i/b DSK Legal for the Respondent No.1 (Org. Petitioner).

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CORAM : A.S. OKA & G.S. PATEL, JJ
DATED : 16TH MARCH 2016

(IN CHAMBER AT 2.40 PM.)

P.C.

1. Heard learned senior counsel appearing for the Applicant
and the learned counsel appearing for the Petitioner in Writ Petition.
The prayer is for modification of the order dated 21st December 2015.
By the said order, the Writ Petition filed by the Maharashtra State

Electricity Distribution Company Limited was admitted and Clause (4) of the impugned order passed by the Appellate Authority under Section 126 of the Electricity Act, 2003 was stayed. Clause (4) directed the Writ Petitioner to refund a sum of Rs.158,38,79,803/- within a period of one month from the date of receipt of the said order. The operation and execution of the Clause (4) has been stayed by the order dated 21st December 2015 after hearing the present Applicant.

2. The only prayer in this Application reads thus:

“This Hon'ble Court be pleased to direct the Petitioner to deposit a sum of Rs.158,38,79,803/- (Rupees One Hundred and Fifty Eight Crores, Thirty Eight Lakhs Seventy Nine Thousand Eight Hundred and Three Only) in this Hon'ble Court and the Applicant be granted liberty to withdraw the said amount on furnishing a bank guarantee of a nationalized bank in favour of the Registrar General of this Hon'ble Court.”

3. So long as the interim order of stay of operation of the Clause (4) continues to operate, the prayer Clause (a) seeking a direction to the Writ Petitioner to deposit the amount covered by Clause (4) of the impugned order cannot be granted. In any case, only after hearing the Applicant, this Court has stayed the operation of Clause (4) of the impugned order. Therefore, if the prayer Clause (a) is granted, the order of stay will stand vacated.

4. Merely because the Applicant is now in a position to furnish a bank guarantee, it cannot be said to be a subsequent event warranting interference with the earlier order dated 21st December 2016. Hence, the Application is rejected.

(G.S. PATEL, J)

(A.S. OKA, J)