

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

FAO-CARB No.15 of 2020 (O&M)

Date of Decision: July 27, 2020

Cars24 Services Pvt. Ltd.

...Appellant

VERSUS

M/s Landmark Infonet Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE S.N.SATYANARAYANA

HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Akshay Bhan, Senior Advocate with
Mr. G.S.Sullar, Advocate,
Mr. Sushant Kareer, Advocate,
Mr. Yash Shrivastava, Advocate, and
Ms. Satakshi Sood, Advocate,
for the appellant.

Mr. Narinder Hooda, Advocate
for the respondent.

S.N. SATYANARAYANA, J.

The contesting respondent in Arbitration case No.112 of 2020 on the file of learned Additional District Judge-cum-Presiding Judge, Special Commercial Court at Gurugram has come up in this appeal impugning the interim order dated 20.07.2020 passed in the said proceedings. Admittedly, arbitration proceeding is initiated by the respondent, who is landlord of the premises, which is in occupation of appellant herein. The pleadings would indicate that the respondent has let

out the premises to the appellant for a period of nine years with lock-in period of three years, each of three terms. The tenancy has commenced in the year 2017 with monthly rent of around ₹23 lakh. The undisputed fact is that the appellant herein was paying the rent punctually upto to end of March 2020. It is thereafter due to pandemic situation arising out of Covid-19, they were not able to carry out their business and incidentally, they were also not in a position to honour their commitment towards rent, which has led to several negotiations between the parties. Initially, it was for re-arranging the lease terms by reducing the rent. Subsequently, it is stated that the appellant indicated its intention to terminate the lease, it was opposed by the respondent herein, firstly on the ground that his client made specific modification and alterations to the building incurring expenses to the tune of nearly ₹6 crore. The same is done on an understanding that the tenant would be tenants of leased premises for nine years. It is in this background, they are not agreeable for tenancy being terminated.

In any event, as agreed by both the learned counsel for the parties, the lease agreement provides for an arbitration clause in such an eventuality. Accordingly, petition under Section 9 of the Arbitration and Conciliation Act has already been filed before the District Court, where it is seen that the respondent herein, who is applicant in arbitration proceedings, has sought for attachment of amount of ₹4.45 crore from the bank account of tenants which according to them, would be to the extent of damages that would be caused to them, in the event the appellant herein vacates the premises before the completion of first lock-in period of three years.

It is that amount, which was sought to be attached for the

following reasons; it is stated that the appellant herein is a multinational

company, having no fixed assets inventory in India and that if they vacate the premises and move away, there will be no hold, so far as respondent-landlord is concerned, for the recovery of damages, which may eventually be decided in the arbitration proceedings.

Secondly, the only tangible asset which they are holding is the amount lying in two bank accounts, which are referred to in the interim application. It is in this background they sought that the money is required to be attached, which the trial Court has rightly considered according to them. Learned counsel for the appellant is opposing the same on the ground that such an order could not have been passed on the first date of hearing, at the time of issuance of notice and that the District Court while passing such order has not taken into consideration the fact that a sum of ₹1.60 crore is lying with the respondent as advance and therefore, the order is bad and same is required to be recalled and opportunity should be given to the appellant to oppose interim application filed by the respondent before the District Court in arbitration proceedings.

In the aforesaid fact situation, learned counsel appearing for both the parties are heard. The appeal memo and order impugned are perused.

On going through the same, it is observed that though on the face of it, it appears that the the District Court was in haste in granting the attachment before judgment on the first date of hearing itself, the same does not appears to be wrong for the other reason that the appellant is a multinational company, having no base in India except for two bank accounts, where it is stated that nearly ₹9 crore is available. In the event of

notice being issued, as contended by the respondent, there was every

possibility of money being shifted from the said bank accounts as apprehended by the respondent. It is in this background, probably learned District Judge has felt it appropriate to pass the order impugned. Be that as it may.

Now, in view of the fact that the appellant is duly served and matter is said to be listed today, we feel it is appropriate to dispose of this appeal with following direction to the learned District Judge:

“ The learned counsel for appellant-tenant, who is respondent before the District Court, to file objections to application for attachment forthwith. Thereafter, the learned District Judge shall hear the application for interim order afresh and decide the same taking into consideration the amount that may have to be considered in favour of respondent-landlord, if their claim is accepted in the said proceedings. While doing so, any amount, which is lying with the respondent-landlord before the District Judge, should also be taken into consideration. Accordingly, the balance amount that the respondent-landlord may be entitled to receive tentatively in the event of its success, shall be calculated. Thereafter, the District Judge may call upon the appellant-tenant to furnish suitable security. Appropriate orders on those line may be passed by the learned District Judge within ten days from the date of receiving of certified copy of this order. Till such time the order impugned dated: 20.07.2020 shall be in operation.”

While disposing of this appeal, we would also observe that all

also other aspects, which may be raised in the form of objections, shall be appropriately dealt with by learned District Judge, in accordance with law.

The appeal stands disposed of accordingly. In view of the disposal of the appeal, all pending misc. applications does not survive for consideration.

(S.N.SATYANARAYANA)
JUDGE

(ARCHANA PURI)
JUDGE

July 27, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No