

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

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**CWP-20667-2022 (O&M)
Date of Decision: 13.09.2022**

OM CABLE

... Petitioner

Versus

M/S FASTWAY TRANSMISSIONS PVT. LTD. & ANR.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Kinshu Mittal, Advocate &
Mr. Ishan Kaushal, Advocate
for the petitioner.

Mr. Abhishek Sharma, Advocate &
Mr. Aayush Gupta, Advocate
for the respondent No.1.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Articles 226/227 of the Constitution of the India, 1950 raising a challenge to the impugned order dated 18.05.2022 (Annexure P-6) as well as order dated 22.08.2022 (Annexure P-10) towards execution of the order Annexure P-6 in Broadcasting Petition No.61 of 2022 passed by the Telecom Disputes Settlement and Appellate Tribunal, New Delhi.

Learned counsel appearing on behalf of the petitioner contends that as per the notification dated 27.05.2013 issued by the Telecom Regulatory Authority of India, a set-up box (STB) becomes the property of the subscriber, except for the smart card/viewing card, after three years from the date of installation. He contends that the 231 set up boxes that were claimed by the respondent no.1 had been installed more than three years ago and that the rent in respect thereto already stands remitted. It is, thus, contended that the claim against the said STBs is not maintainable in view of

the aforesaid notification and the same becomes the property of the subscriber. He draws attention to the prayer made by the respondent No.1 in the proceedings instituted in the Broadcasting Petition before the Telecom Disputes Settlement and Appellate Tribunal, New Delhi, wherein there is no claim pertaining to any arrears of rent. He contends that in the order dated 18.05.2022, the Telecom Disputes Settlement and Appellate Tribunal, New Delhi has directed the petitioner to deposit a sum of Rs.5,00,000/- before the Registrar of the Telecom Disputes Settlement and Appellate Tribunal, New Delhi and that on account of non-deposit of the said amount, the order dated 22.08.2022 has been passed directing the distribution licensee to disconnect the supply of electricity forthwith. It is also pointed out that the order dated 18.05.2022 had been passed in the absence of the petitioner and without any response being filed by him.

Learned counsel for the respondent No.1, however, contends that the petitioner opted not to appear before the Telecom Disputes Settlement and Appellate Tribunal, New Delhi despite being served. He contends that Section 16(f) of the Telecom Regulatory Authority of India Act, 1997 provides for a statutory remedy of review. It is thus submitted that the petitioner has approached this Court in haste without exhausting the aforesaid statutory remedy that was available to him.

On a pointed query being put to the counsel representing the respondents as to whether the STBs were installed for more than a period of three years, the reply is evasive. Consequently, the Court draws an inference that the specific assertion made by the petitioner that the STBs were installed for more than three years is *ex facie* accepted without commenting anything on the merits thereof.

However, taking into consideration that an efficacious statutory remedy in the form of review is available to the petitioner, learned counsel for the petitioner seeks permission to withdraw the present petition so as to file a Review Petition in terms of Section 16(f) of the Telecom Regulatory Authority of India Act, 1997 within a period of one week from the date of receipt of certified copy of this order alongwith appropriate application seeking stay/recall of order dated 18.05.2022 (Annexure P-6). In the event of any such application being filed by the petitioner, the same shall be decided expeditiously preferably within a period of ten days from the date of submission of such application. Till such time, the operation of the impugned order dated 18.05.2022 (Annexure P-6) and all consequential orders passed on the strength of the same shall be kept in abeyance.

Present petition stands disposed of accordingly.

Nothing stated herein above shall be construed as an expression of opinion on the merits of the case and the competent authority shall be at liberty to pass appropriate order after appreciating the rival contentions of the respective parties.

13.09.2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No