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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 28.01.2022

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FAO 21/2022 & CM. APPLS. 4967-69/2022

NATRAJ POLYCHEM PRIVATE LIMITED

..... Appellant

versus

ICICI BANK LIMITED & ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant:

Mr. Nitin Mittal, Advocate

For the Respondents:

Ms. Chetna Bhalla for R-1.

Mr. Gaurav Singhal, Director of R-3.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Appellants impugn award dated 18.01.2022, whereby the application of the appellant under Order XXXIX Rule 1 and 2 CPC has been dismissed.
3. The appellant/plaintiff had filed the subject suit for perpetual and mandatory injunction directing respondent No1/ICICI Bank



Limited to debit the Current Account of M/s. Nepin Impex Ltd., respondent No.3 and reverse the transfer erroneously made by the appellant into the account of respondent No.3.

4. Learned counsel for the appellant submits that the appellant had to transfer some funds to M/s. Neelam Trading Company, who is the agent of ONGC with which the appellant had some transactions and the said amount of Rs.47,84,496/- had to be transferred.

5. On 29.11.2021, when RTGS was being made, because of an error on the part of the employee of the appellant, the amount was requested to be transferred in the name of Ms. Nepin Impex Private Ltd. instead of M/s. Neelam Trading Company.

6. On realising the mistake, immediately an e-mail and letter were written to the HDFC Bank as well as to the ICICI Bank Ltd. for reversal of the said amount. On ICICI Bank Ltd. failing to do so, the subject suit was filed.

7. Issue notice. Notice is accepted by learned counsel for respondent No.1 as also by respondent No.3. Respondent No.2, is the bank of the appellant and is merely a proforma party.

8. Learned counsel appearing for respondent No.3 submits that the amount does not belong to respondent No.3 and a written statement has been filed specifically stating that they had no amount which was



to be received from the appellant and they have no objection in case the amount is transferred back to the appellant.

9. On the other hand, learned counsel appearing for respondent No.1/ICICI Bank Limited submits that the subject suit is a collusive suit filed by the appellant in collusion with respondent No.3 for the reason that there is a lien on the bank account of respondent No. 3 of the Government of Maharashtra as well as Government of Gujarat of about Rs. 6.68 crores for a recovery to be made against respondent No.3 under the Maharashtra Value Added Tax Act, 2002 and Gujarat Value Added Tax Act, 2003.

10. Learned counsel submits that there is a hold put on the said account, accordingly, the said amount cannot be transferred back.

11. Learned counsel, however, submits that as of now there is no demand made either by the Government of Maharashtra or the Government of Gujarat for transmission of any amount standing in the credit of respondent No.3 to the said entities and the direction is to put the account on hold.

12. Since there is a dispute as to whether the amount was meant for M/s Nepin Impex Private Limited or Ms. Neelam Trading Company and particularly when there is no demand made either by the Government of Maharashtra or Government of Gujarat to ICICI Bank Ltd. to transfer the amount to their accounts, it would be appropriate



that the ICICI Bank Ltd. continues to hold the said amount in the said account subject to the outcome of the Suit.

13. It is however clarified that in case a demand is made either by the Government of Maharashtra or the Government of Gujarat for transfer of amount to their credit, it would be open to ICICI Bank Ltd. to approach the trial court for appropriate modification or variation of this order and for granting permission to transfer the said amount. Impugned Order dated 18.01.2022 is modified to the above extent.

14. The appeal is accordingly disposed of in the above terms. It is clarified that this is without prejudice to the rights and contentions of the parties.

15. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

JANUARY 28, 2022
NA