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

CR-5462-2022

Date of decision: 3rd May, 2023

Hindustan Antibiotics Ltd.

...Petitioner

Versus

Centrient Pharmaceuticals India Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. D. Ray Chaudhary, Senior Advocate with
Mr. D.G. Dhanure, Advocate and
Mr. Roshan Mittal, Advocate for the petitioner.

Mr. Avinash Tripathi, Advocate,
Mr. Abhinav Sood, Advocate and
Mr. Deepika Sood, Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

1. This revision petition is filed during the pendency of the execution petition in the Court at SBS Nagar and following directions are sought:-

(i) that the Respondents/JD be ordered to pay to the petitioner/Decree Holder the decretal amount of ₹1100 crore approx.

(ii) for immediate attachment and sale of the assets of the respondent as also for appointing a Court Commissioner for making inventories of the movable and immovable assets of the respondent.

(iii) the interim prayer is sought that respondent be restrained from making any encumbrance on movable and immovable property.

(iv) to pass an ad-interim order appointing a Court Commissioner.

Centrient Pharmaceuticals India Pvt. Ltd. (hereinafter referred as 'CPI') entered into a joint venture agreement. The clause of the agreement provided for dispute resolution through arbitration. The arbitration proceedings initiated at the instance of the petitioner culminated in award dated 26th June, 2015. The objections filed by both the parties under Section 34 of Arbitration and Conciliation Act, 1996 (for short 'the Act'), are pending till date in Court at Pune. The application filed by the petitioner under Section 9 of the Act was rejected on 29th September, 2017 and on challenge, the Bombay High Court on 19th June, 2019 set aside the order and remanded the matter back. In pursuance to remand, the application under Section 9 of the Act was decided on 1st July, 2019 directing the respondent to deposit fifty per cent of the awarded amount. The directions issued under Section 9 of the Act were challenged and the Bombay High Court held that application under Section 9 of the Act was not maintainable. However, the offer made by the respondent to furnish a bank guarantee of Rs. 150 crores was accepted by the High Court. It was clarified that in case the petitioner intended to execute the award the respondent would be at liberty to seek withdrawal/ return of the bank guarantee. The SLP against the decision of Bombay High Court was dismissed. The Supreme Court observed that in case of filing of an execution the same be disposed of expeditiously.

3. There was a delay in furnishing the bank guarantee by the respondent and the matter ultimately reached this Court by way of Civil revision No. 1071 of 2023. The respondent (in the present case) restricted the prayer that the stay application before the Court at Pune is ripe for argument and is fixed for 23rd February, 2023, the property of the respondent already stands attached and reasonable time be granted for

getting a decision on application filed under Section 36 of the Act. The request was accepted and the operational part of the order dated 21st February, 2023 is reproduced:-

“Having conspectus of the facts and without commenting upon the merits of the case, six weeks period from 23.2.2023 is granted to the petitioner for making an endeavour for getting application under Section 36 of the Act decided. Till then only as interim measure the Executing Court shall adjourn the execution proceedings beyond that date.”

4. The Court at Pune decided the application under Section 36 of the Act on 18th March, 2023. The operational part of the order is reproduced below:-

“1. Application is allowed as follows.

2. Pending hearing and final disposal of the present application i.e. M.A. No. 746/2015, stay to the execution, operation and implementation of arbitral award dated 26.06.2015 is granted subject to deposit of Bank Guarantee of Rs. 1090.69 Crores of any Nationalized Bank in the name of Registrar, District Court, Pune within the period of three weeks from today.

3. While furnishing Bank Guarantee applicant has liberty to consider the Bank guarantee of Rs. 150 Crores which is already submitted and which in force up to 30.06.2023. Meaning thereby applicant shall furnish Bank Guarantee by deducting Bank Guarantee of Rs. 150 Crores.

4. If applicant fails to comply the above referred order then this order will stands cancelled automatically without making further reference.”

5. The application for modification of the order passed under Section 36 of the Act filed by petitioner was rejected on 17th April, 2023.

The order of the Pune Court was challenged by both the parties before the

on 25th April, 2023. The prayer of the respondent was accepted and it was directed that the bank guarantee for ₹410 crores be furnished instead of ₹1090.69 crore. Further the Court concerned was requested to dispose of objections under Section 34 of the Act at the earliest.

6. Learned Senior counsel appearing for the petitioner submits that petitioner is in process of filing the SLP against the Bombay High Court decision.

7. Learned counsel for the respondent on instructions submits that the order of the Bombay High Court has duly been complied and bank guarantee of ₹410 crores was furnished on 6th April, 2023.

8. At this stage, in view of the above noted facts, there is no occasion for this Court to expound on the merits of the case.

9. The undisputed fact as on date is that the amount awarded vide the arbitral award has been stayed in proceedings under Section 36 of the Act. In such circumstances, no grievance can be raised by the petitioner at this stage that execution proceedings are not progressing.

10. No interference is called for, the petition is dismissed.

11. Needless to say that in case of change in circumstances, petitioner would be at liberty to approach the Executing Court in accordance with law.

[AVNEESH JHINGAN]
JUDGE

3rd May, 2023

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No