

\$~16

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

%

Date of decision: 28th April, 2023

+

W.P.(C) 4663/2023

PAVAMANA DRILLING PVT LTD Petitioner

Through: Mr. Sunil Fernandes, Mr. A. A. Arora and Mr. Divyansh Tiwari, Advocates.

versus

PUNJAB NATIONAL BANK & ANR. Respondents

Through: Mr. Sanjay Bajaj and Mr. Shivam, Advocates for R-1/PNB with Ms. Kusum Lata, Manager, Legal.
Mr. Anand Aggarwal Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

NAJMI WAZIRI, J. (ORAL)

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. Upon instructions from Ms. Kusum Lata, Manager (Legal), PNB

the learned counsel for the respondent Bank submits that the Bank has received the monies apropos the Oil Rig and it has no objection to the release of this oil rig in favour of the petitioner. The Bank is supported by a letter dated 15.03.2016 issued by the borrower/ R-2, who has hypothecated the said Oil Rig to the Bank against the loan. The said letter reads as under:-

“Date: 15.03.2016

*To,
The Manager,
Punjab National Bank, Large Corporate
Branch,
Tolstoy House, Tolstoy Marg, New Delhi-
110001*

Sir,

*Sub: No objection certificate to transfer the
title and possession rights of 1500 HP Rig in
favour of Pavamana Drilling Pvt. Ltd.*

*We bring to your kind notice that Pavamana
Drilling Pvt Ltd will provide all the required
funds to Tuff Drilling Private Limited to settle
the Bank loan under the OTS scheme under an
agreement that title and possession of the
1500 HP Rig shall be transferred in favour of
Pavamana Drilling Private Limited
immediately at the time of loan dues payment.*

We hereby declare that once the funds for OTS of both the banks i.e. Punjab National Bank and United Bank of India, have been provided by Pavamana Drilling (P) Ltd. and the accounts are settled, we have no objection on the transfer of the title and possession rights in favour of Pavamana Drilling Private Limited. Please treat this letter as our No Objection Certificate.

Further, we hereby allow the bank to submit/provide all the required documents to Pavamana Drilling Private Limited needed for the transfer of title and possession of the 1500 HP Rig in favour of Pavamana Drilling Private Limited.

*Thanking You
For Tuff Drilling Private Limited
Sd/-
Vivek Yadav
Director”*

2. The petitioner has already averred before the DRAT that it wishes to receive possession of the Oil Rig and has also requested the Bank to release possession of the same. The learned counsel for R-2/borrower submits that there is some *lis* between R-2 and the petitioner.
3. Be that as it may, the fact remains that the petitioner paid the Bank Rs.46.25 crores in 2016 under a sale agreement with R-2 for acquisition of the Oil Rig. The agreement was shared with the Bank. The Bank was fully aware of the entire transaction and was

also informed about it by issuance of the aforesaid letter/NOC by R-2. In the circumstances, the petitioner should not be deprived of the property.

4. The Banker is ready and willing to release the Oil Rig to the petitioner without any liability upon itself. The learned counsel for R-2 submits that if the property is released to the petitioner, then the appeal pending before the DRAT may well become infructuous. On a query put to the learned counsel for R-2 as to whether R-2 is in a position to return the monies along with commercial borrowing interest on Rs.46.25 crores, from the date the monies were paid to it or to the Bank by the petitioner, the answer is in the negative. That being the position, the petitioner cannot be deprived of either the property i.e. the Oil Rig or the refund of the monies paid by it for the acquisition of the same. The petitioner does not wish to be in any litigation. It is only fair and just that the Oil Rig be handed over to it. In the circumstances, the Bank is directed to hand over the Oil Rig to the petitioner.
5. The petitioner submits that handing-over the possession is a tedious process and would require a third person to take its possession from the Bank and then hand it over to the petitioner. The petitioner requests for the appointment of a Local Commissioner for this purpose. In the circumstances, Mr. Khowaja Siddiqui, Advocate (Mob No. 9811217751) is appointed as the Local Commissioner to take possession of the Oil Rig. The Bank shall hand over photocopies of all documents along with the inventory

list which are in its possession apropos the Oil Rig to the Local Commissioner within four working days of receipt of copy of this order. Its officers shall be present at the site to assist the Local Commissioner for verification of the inventory and the status of the Oil Rig. R-2 too shall hand over all documents it has apropos the Oil Rig to the Local Commissioner. Both R-2 and the Bank shall depute their representatives at the time of taking over physical possession of the Oil Rig by the Local Commissioner, which according to the learned counsel for the petitioner could be done in the second/ third week of May, 2023. Let it be done on such dates as may be fixed by the Local Commissioner. The proceedings shall be videographed. The petitioner says that the process may take more than a week and multiple visits to the site in Gujarat for the Local Commissioner to discharge his duties. In the circumstances, for the moment, the fees of the Local Commissioner is fixed at Rs.20 lacs, in addition to out of pocket expenses and logistical support. The Local Commissioner may take the assistance of a technical expert at the expense of the petitioner. Half of the Local Commissioner's fees be paid as the initial installment. The fees would be paid in such parts as may be billed by the Local Commissioner.

6. It will be open to R-2 to pursue its remedies as may be, available in law.

7. The petition is disposed-off in the above terms.

NAJMI WAZIRI, J

SUDHIR KUMAR JAIN, J

APRIL 28, 2023

sk/am

