



WEB COPY



CRP.No.4455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.4455 of 2024
and CMP.No.24847 of 2024

The Principal General Manager (Telecom)
Bharat Sanchar Nigam Limited
Tiruchirapalli Telecom District
4, Bharathidasan Salai
Trichirapalli, Tamil Nadu – 620 001

2. The Director (PHP)
Department of Telecommunications
Sanchar Bhavan
20, Asoka Road
New Delhi - 110001

... Petitioners

Versus

1.Indiacom Limited
Formerly known as Sesa Seat Information Systems Limited
Office No.226, Akshay Complex
Dhole Patil Road, Pune, Maharashtra 411 001
Represented by its Director, Srinivasa Venkaba Roa

2.ICICI Bank Limited
New No.298
Anna Salai, Mount Road
Chennai - 600 002

... Respondents



CRP.No.4455 of 2024

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 27.03.2024 passed in EP.No.1563 of 2023 on the file of the IX Assistant Judge, City Civil Court, Chennai in O.S.A.No.200 of 2013 on the file of this Court.

For petitioner : Mr.K.M.Vijayan, Senior Counsel
for Mr.Ramesh Kumar KR

For Respondents : Ms.Ami V.Kataria for R1

ORDER

Challenge has been made to the order passed by the Executing Court directing a sum of Rs.76,44,136/- payable to the decree holder and issuing garnishee order, the present revision has been filed.

2. Brief background of the case are as follows:

2.a. Arbitration proceedings were initiated to decide the dispute in printing, publishing and supply of Telephone Directories between the General Manager, Telecom District, Trichur and M/s.Sesa Seat Information Systems Ltd., Pune. An interim award has been passed by the arbitrator on 05.12.2001, wherein, the respondent was directed to encash the DD of Rs. 25,52,0000/- issued by the Canara Bank and deposit the same in the account opened in the name of General Manager, Telecom District, Trichur. Thereafter, the final award was made on 04.03.2009,



CRP.No.4455 of 2024

wherein, in the final award it is directed that the entire proceeds of Rs. 25,52,0000/- along with its interest accrued is placed at the disposal of General Manager, Telecom, BSNL, Trichur. The said award was modified in the application filed under Section 34 of the Arbitration and Conciliation Act before this Court, wherein, it was directed and held that the first petitioner namely Principal General Manager is entitled for a sum of Rs.25,52,000/-. The said award has been challenged in appeal by both sides in O.S.A.Nos.200 of 2013 and 34 of 2014. By judgment dated 18.06.2019, Division Bench of this Court set aside the findings of the learned Single Judge with regard to the commission of breach on the side of the appellants and also the observation that BSNL telecom department is entitled to Rs.25,52,000/-. SLP has been filed in SLP (Civil) Diary No.4002 of 2022 against the said judgment and the same was also dismissed vide order dated 21.08.2020.

2.b. Therefore, the original award passed in this regard is restored. Thereafter, EP has been filed by the first respondent claiming 18% of the interest as per the Arbitration and Conciliation Act. The petition has been allowed directing the respondent to pay a sum of Rs.76,44,136/- to the decree holder/first respondent.



CRP.No.4455 of 2024

The said interest of 18% claimed is as per the unamended Arbitration and Conciliation Act. Challenging the said order, the present revision has been filed.

3. The original award has not stipulated any interest rate, however, had directed the amount to be kept in deposit. When this Court suggested to both sides that the rate of interest is payable only at the rate of fixed deposit interest not by the rate ordered by the execution court. Accepting the suggestions, both sides placed calculation memo. The third option provided by both sides indicates that the interest has been worked on the basis of prevailing bank interest.

4. The learned senior counsel for the petitioners submitted that they have no quarrel over the option submitted by the first respondent, however, it is their contention that since the direction was passed by way of interim award only on 05.12.2001, they are prepared to pay the interest only from that date not from the date of deposit, i.e., from the year 1998.

5. Whereas, the learned counsel for the first respondent submitted that they



CRP.No.4455 of 2024

are entitled to at-least 6% for those period, i.e., around 3 years and 4 months and filed a calculation memo. As per the calculation, after appropriation, the total amount payable would come around Rs.28,23,002/-, whereas, Mr.K.M.Vijayan, the learned senior counsel for the petitioners pointed out that they will calculate the interest of 6% from the year 1998 till 05.12.2001 and that amount will come around Rs.5,34,032/-, if it is added to their calculation, the amount payable will be around Rs.26,93,988/-. According to him, they are ready to pay that amount. As the difference of both sides would come around 1 lakh. The counsel for the first respondent submitted that if the amount is rounded to Rs.27 lakhs, they will be content with the same.

6. Accordingly, this Court is of the view that in order to give quietus to the issue, as the parties are in agreement with the calculation of the bank interest directs the revision petitioners to pay a sum of Rs.27 lakhs in full quit to put an end to the litigation. For which the learned senior counsel for the revision petitioners is agreeable.

N. SATHISH KUMAR, J.



CRP.No.4455 of 2024

WEB COPY

7. Such view of the matter, the impugned order of the Trial Court is set aside and the revision petitioner is directed to pay a sum of Rs.27 lakhs in full quit to the first respondent within a period of four weeks from the date of receipt of a copy of this Order. Failure to pay the amount within the time, said amount will carry interest at the rate of 9% per annum. Accordingly, this revision stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

18.12.2024

Index : Yes / No
Speaking/non speaking order
dhk

To,

The IX Assistant Judge
IX Assistant City Civil Court, Chennai

CRP.No.4455 of 2024