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

\+ W.P.(C) 6063/2023, CM APPL. 23724/2023, CM APPL. 42015-42016/2023, CM APPL. 46113/2023, CM APPL. 52063/2023, CM APPL. 56599/2024

ANSAL PROPERTIES AND INFRASTRUCTURE LIMITED .....Petitioner

Through: Mr. Vibhor Kapoor and Ms. Sujot Datta, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Pawanjit Singh Bindra, Senior Advocate with Mr. Abhishek Agarwal, Advocate for R-2, 3.
Mr. Rishi Kapoor, Ms. Deboleena Dutta and Mr. Ankur Sudan, Advocates for VSquare Service Pvt Ltd.
Mr. Ravi Prakash, CGSC with Mr. Taha Yasin, Mr. Yasharth, Ms. Isha Kanth and Ms. Astu Khandelwal, Advocates for UOI.
Mr. Tushar Sannu, Advocate for GNCTD.
Mr. Raghav Sabharwal, Mr. Harsh Vardhan Singh, Ms. Sakshi Jain, Advocates for Ansal Plaza Owner Welfare Association.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **21.11.2024**

1. Counsel for the Petitioner seeks permission to withdraw the present petition. Opposing this request, Mr. Pawanjit Singh Bindra, Senior Counsel for Respondent Nos. 2 and 3, contends that the Petitioner, having secured an

interim order in their favour, cannot now unilaterally withdraw the petition to evade adjudication and the obligations arising therefrom. He asserts that the Petitioner should not be permitted to reap the benefits of the interim relief without fulfilling corresponding responsibilities. Reference is made to the order dated 9th May, 2023, which provided interim protection to the Petitioner.

2. In response to the aforenoted objections, counsel for the Petitioner states that the order in question only directed the Petitioner to pay an amount of Rs. 30 Lakhs to Respondent No. 3, which has been complied with. He argues that the order did not restrain Respondent No. 3 from taking any action against the Petitioner or recovering further amounts. Therefore, they are entitled to withdraw the petition and Respondents No.2 and 3 cannot seek any additional directions in these proceedings.

3. The Court has considered the aforenoted submissions. It is pertinent to note that the Petitioner secured an interim order on 9th May, 2023, reproduced below:

> *"3. The Petitioner has approached this Court challenging the communication dated 4th May, 2023 and seeking directions to Respondent No.2- Housing & Urban Development Corporation Ltd. (HUDCO) for maintenance of common areas of Ansal Plaza at Andrews Ganj, New Delhi. The e-mail dated 4th May, 2023 issued by HUDCO reads as under:*
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> > *"Dear Sir,*
> > ***This to intimate that despite of regular follow up with Ms APIL, the payment amounting to Rs 65,87,696/- from Oct 2022 to March 2023 towards the pro-rata share of common services/ areas for the shopping Arcade (Ansal Plaza), at HUDCO Place Andrewsganj, is still pending.*** *May please appreciate that in absence of payment of the dues by M/s APIL, HSC is facing hardships and thus finding difficulties for providing its services.* ***In this connection, it is requested that pending dues may please be cleared by 6th May 2023 (Saturday) by 5.00 pm, or else, HSC shall be constrained to take action on curtailment of maintenance services including restricting***

__the electricity in common areas and car basement parking w.e.f. 08.5.2023 (Monday).__ Copy of the last bill is attached herewith for immediate action at your end.

Thanking you
ED, HSC"

4. Yesterday when the matter was first listed before the Court, notice was issued to HUDCO. Ld. counsel for HUDCO is present today.
5. Mr. Sikri, ld. Senior Counsel submits that the maintenance of Ansal Plaza has not been undertaken by HUDCO regularly. He relies upon the various photographs of the parking area and of other common areas which according to him would show that the HUDCO is in severe breach of its obligations.
6. On the other hand, on behalf of HUDCO, it is submitted that the Petitioner is not paying the license fee, maintenance charges and other charges. It is further submitted that there are disputes which have arisen between the parties and arbitration awards have also been passed. The total dues of the Petitioner to HUDCO, as per the ld. Counsel, are more than Rs.300 crores. Furthermore, in the notice issued on 4th May, 2023 itself, the dues are to the tune of Rs.65 lakhs. Hence, the Respondent had no option but to threaten disconnection of electricity including in the basement.
7. Having heard the ld. Counsel for the parties, it is clear that there is a dispute as to the amounts due and payable between the parties.
8. Let the parties hold a meeting and reconcile amounts payable between themselves.
9. In the meantime, as an interim payment, the Petitioner shall pay a sum of Rs.30 lakhs to Respondent No.3 within a period of one week, subject to which, the electricity and other facilities shall not be hampered.
10. The meetings shall take place between the Petitioner and the officials of Respondent Nos. 2 and 3 on 24th May, 2023 in the Ansal Plaza premises itself.
11. Let a status report be placed on record by all the parties.
12. Respondent Nos. 2 and 3 are permitted to file their counter affidavits within a period of six weeks.
13. List before the Registrar on 10th July, 2023.
14. List before the Court on 5th October, 2023."

4. From the perusal of the interim order, it is evident that the Court granted relief to the Petitioner by restraining HUDCO from discontinuing maintenance services, including restricting disconnection of electricity in common areas and basement parking, subject to the Petitioner making an

interim payment of INR 30 lakhs and engaging in reconciliation meetings to resolve outstanding dues. Thus, the question arises whether a Petitioner, after obtaining interim relief, can withdraw the petition without resolving the underlying disputes or fulfilling obligations arising during the pendency of the petition. In the opinion of the Court, having benefited from the interim order, the Petitioner cannot now disclaim the obligations attached to it. Under Article 226 of the Constitution of India, 1950—which was invoked to grant the relief—the Court also possesses inherent powers to prevent abuse of its process and to secure the ends of justice. Equity demands that one who seeks equity must do equity. The Petitioner, having enjoyed the benefits of the Court's interim protection, must also bear the corresponding burden. The Petitioner obtained interim relief preventing the Respondents from disrupting essential services, subject to payment and reconciliation obligations. The Petitioner made an interim payment of INR 30 lakhs but has not made any further payments towards the substantial dues claimed by Respondent No. 3. During the pendency of the petition, the Petitioner handed over the management, operation, and maintenance of the mall to VSquare Services Private Limited. From January 2024 onwards, Habitat Service Centre has been raising invoices in the name of VSquare Services Private Limited instead of the Petitioner.

5. In light of the foregoing, the Court is of the considered opinion that allowing the Petitioner to withdraw the petition under these circumstances, without settling the outstanding dues incurred during the pendency of the proceedings, would be inequitable and contrary to the principles of justice and fair play. Therefore, the Petitioner cannot be allowed to unilaterally terminate the proceedings after having availed the benefits of an interim

order, thereby leaving Respondents No.2 and 3 without recourse for the obligations incurred during the pendency of the petition. Allowing the Petitioner to withdraw without settling the dues would result in unjust enrichment at the expense of the Respondents.

6. The Court notes that from January 2024 onwards, the operation and maintenance of the mall have been undertaken by VSquare Services Private Limited. However, the Petitioner cannot absolve itself of liabilities incurred prior to that date by merely appointing to a new maintenance agency. The Petitioner seeks to wash its hands of the matter by asserting that it is no longer concerned with the services provided by Habitat Service Centre. This stance is untenable, as the Petitioner benefited from the services during the period in question and must fulfil its corresponding obligations.

7. Accordingly, the Court directs the Petitioner to, within six weeks from the date of this order, reconcile accounts with Respondent No. 2 and 3 and pay all outstanding dues for services availed up to December 2023. Failure to comply with these directions shall entitle Respondent No. 2 and 3 to seek enforcement of their rights through appropriate legal remedies, as permissible under law.

8. Disposed of along with pending applications.

SANJEEV NARULA, J

NOVEMBER 21, 2024
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