



\$~2

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

% *Date of Decision: 01.02.2024*

+ **EFA(OS) (COMM) 24/2023 & CM Appl. 57930/2023**

ADTV COMMUNICATION PRIVATE LIMITED (FORMERLY
AEZ INFRATECH PRIVATE LIMITED) Appellant

Through: Mr Praveen Kumar, Mr Neetej
Kumar, and Mr Naman Mittal,
Advocates.

versus

SNG DEVELOPERS LIMITED Respondent

Through: Mr. Prateek Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J (ORAL):

1. Counsel for the respondent has entered appearance in the matter.
2. With the consent of the counsel for the parties, the matter is taken up for hearing and final disposal at this stage itself.
3. This appeal is directed against the order dated 15.03.2023 passed by the learned Single Judge in respect of enforcement petition no. OMP (ENF.) (COMM.) 160/2022 & EX. APPL. (OS) 3359/2022.
 - 3.1 A perusal of the impugned order shows that the executing court intends to enforce the award dated 06.09.2021.
 - 3.2 Furthermore, the impugned order also reveals [something which is not disputed by the counsel for the appellant] that the appellant did not file a



petition under Section 34 of the Arbitration and Conciliation Act, 1996 to assail the aforementioned award.

4. Mr Praveen Kumar, who appears on behalf of the appellant, also does not dispute the fact that no objections have been filed in the execution proceedings.

5. What the appellant has filed though is an affidavit disclosing the details of its assets.

5.1 We may note that the counsel for the respondent says that the said affidavit does not make a complete disclosure.

6. That said, the only reason the appellant has approached this court, as per Mr Praveen Kumar, is its grievance concerning the direction issued *via* the impugned order requiring it to deposit the entire awarded amount along with interest with the Registrar General of this Court, within the stipulated timeframe. According to Mr Praveen Kumar such a direction could not have been issued as it is not one of the modes provided in the Code of Civil Procedure, 1908 [in short, “CPC”], for enforcement of an award which has morphed into a decree.

6.1 In this context, Mr Kumar has relied upon Section 51 of the CPC.

7. *Via* order dated 08.01.2024, we had called upon the appellant to place on record the orders which other courts may have passed concerning its assets.

7.1 In other words, what we wanted to know was whether the assets of the appellant stood attached by other courts in legal proceedings taken out against it.

8. In compliance with the said order, the appellant has placed on record its director i.e., Mr Sanjay Aggarwal’s affidavit dated 31.01.2024.



8.1 This affidavit is accompanied by an order dated 09.01.2020 passed by the learned Single Judge of this court in OMP (ENF.) (COMM.) 74/2019, titled *Somani Worsted Limited & Ors vs. AEZ Infra Tech Private Limited & Ors*.

8.2 Mr Praveen Kumar says that AEZ Infra Tech Private Limited was the name by which the appellant was formerly known.

9. As is evident from the cause title of the above-captioned appeal, the appellant/judgment-debtor is presently known as ADTV Communication Private Limited.

10. A perusal of the aforementioned order shows that the appellant along with other judgment-debtors have been restrained from transferring, alienating or disposing of or otherwise parting with the possession of any of their assets to the extent of the award-amount except in the ordinary course of business such as payment of salary and statutory dues, albeit, till the next date.

10.1 Furthermore, the judgment-debtors in that case were also restrained from discharging any financial liability other than the liabilities of the bank/financial institutions without the prior permission of the Court.

10.2 These directions were to operate till the next date of hearing i.e., 13.03.2020.

11. Mr Praveen Kumar says that the said directions continue to operate up until today.

12. The statement of Mr Praveen Kumar is taken on record.

13. We do not have insight into what the awarded amount is in the other matters.

13.1 Mr Praveen Kumar states that apart from the assets *qua* which



injunction operates [which includes funds lying in bank] the appellant has no other liquid funds/assets available with it and therefore, would not be in a position to comply with the directions contain in the impugned order dated 15.03.2023.

14. Given this position, the appeal is disposed of with the following directions:

(i) The learned Single Judge would take next steps in the matter, including, if thought necessary, attach the assets of the appellant company/judgment-debtor and take further proceedings for effecting the sale of the assets in case the appellant refuses to satisfy the award/decreed.

(ii) Take recourse to other powers that are available to the court under Section 51 and the attendant provisions found in Order XXI of the CPC.

15. The impugned order is modified in the aforesaid terms.

16. The appeal is disposed of the aforesaid terms.

17. The interlocutory application shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 1, 2024/pmc