



2024:DHC:7517-DB



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

Date of decision: 26.09.2024

+ **EFA(OS) (COMM) 13/2024**

ANURAG RAJPAL

.....Appellant

Through: Mr.Apurv Parashari and
Ms.Medhya Ahluwalia, Advs.

versus

TANGERINE DIGITAL ENTERTAINMENT PVT. LTD. &

ANR.

.....Respondents

Through: Mr.Varun Kalra, Mr.Krishan
Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed by the appellant challenging the Order dated 15.05.2024 passed by the learned Single Judge of this Court on I.A.6683/2019 in OMP. (ENF.) (COMM.) 148/2017, titled ***Shri Anurag Rajpal v. The American Swan Lifestyle Company Pvt. Ltd. & Ors.***, whereby the respondents were deleted from the array of parties in the Execution Petition.

2. Briefly stated, it is the case of the appellant that an Arbitral Award dated 01.08.2017 was passed in favour of the appellant by the learned Sole Arbitrator, awarding the appellant with full salary, bonus, increments and other emoluments from 01.10.2015 to 08.12.2015, that



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is, Rs.82,93,586/-, along with interest at the rate of 18% per annum till the date of realisation. The appellant was further awarded Rs.70,89,802/- towards the salary for the 6 months' notice period along with interest at the rate of 12% per annum till the date of realisation, and additionally was held entitled to be reimbursed for the full value of his shareholding in the manner/method of valuation indicated in Clause 8.2(b) of the Employment Agreement. In addition to the above, an amount of Rs.50,00,000/- was awarded in favour of the appellant for loss of reputation and undue hardship, and a consolidated sum of Rs.20,00,000/- was awarded to the appellant towards legal expenses. As the above amounts were not paid by the Judgment Debtor, including the respondents herein, the appellant filed the abovementioned Execution Petition before this Court seeking execution of the arbitral award.

3. In the Execution Petition, the respondent no.1 herein was impleaded as Judgment Debtor no.4, while the respondent no.2 herein was impleaded as Judgment Debtor no.3. For the respondent nos.3 and 4, the averments made in the Execution Petition were as follows:

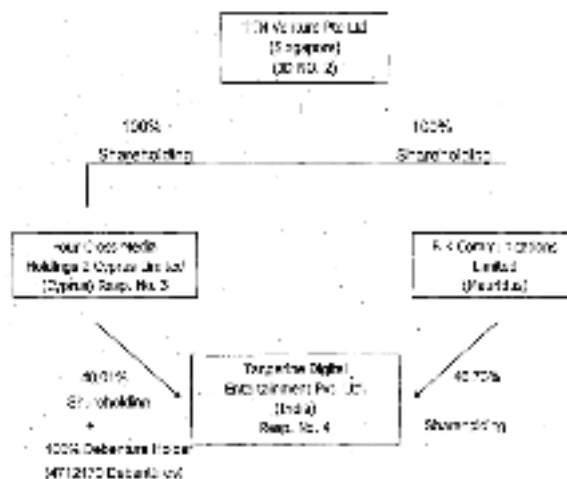
“11.3 That vide the Award dated 01.08.2017, the Decree Holder has been awarded full value of 2,12,914 equity shares of the Judgment Debtor No. 1 held by the Decree Holder, valued at Rs. 700 per share on 05.12.2015 (Date of Termination) as per comparative bench marks in the apparel e-commerce sector, amounting to Rs. 14,90,39,800/- (Rupees Fourteen Crores Ninety Lakhs Thirty Nine Thousand and Eight Hundred) against the Judgment Debtor No. 2.

11.4 That Judgment Debtor No. 2, TTN



Ventures Pte Ltd., is liable to pay the aforesaid amount of Rs. 14,90,39,800/-(Rupees Fourteen Crores Ninety Lakhs Thirty Nine Thousand and Eight Hundred) as stated above. That Judgment Debtor No. 2 is a company incorporated under the laws of Singapore, having assets in India, in the form of investments into equity shares and debentures of Respondent No. 4 Company through its wholly owned subsidiaries, namely, Four Cross Media Holdings 2 Cyprus Limited (Cyprus) and B K Communications Limited (Mauritius). It is pertinent to mention that B K Communication Limited has not been made party in present execution as it not a proper and necessary party.

11.5 That Respondent No. 4 Company, Tangerine Digital Entertainment Pvt. Ltd., is incorporated under the erstwhile Companies Act, 1956 having its registered address at 1301 B Naurang House, 21 KG Marg Connaught Place, New Delhi 110001. The Respondent No. 4 is wholly owned and controlled by the Judgment Debtor. No. 2. The graphical chart representing the shareholding and control of Respondent No. 4 is placed below for the convenience of this Hon'ble Court:



11.6 That the Decree Holder submits that



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Judgment Debtor No. 2 is in liquidation process in Singapore, however, its asset in India, i.e., Tangerine Digital Entertainment Pvt. Ltd. is a going concern, and it is likely that the Judgment Debtor No.2, through Respondent No. 3 Company, will sell, alienate, transfer, encumber, dispose of, and or create third party rights in the 4,712,170 debentures held by it in the Respondent No. 4 Company.

11.7 Similarly, it is also being prayed by the Decree Holder that this Hon'ble Court be pleased to injunct TTN Ventures Pte Ltd. (Judgment Debtor No. 2) and its wholly owned subsidiary, Four Cross Media Holdings 2 Cyprus Limited (Respondent No. 3) from selling, alienating, mortgaging, transferring, encumbering, disposing of, conveying, or creating third party rights in, in any manner whatsoever, in the 4,712,170 debentures of Tangerine Digital Entertainment Pvt. Ltd (Respondent No. 4)."

4. The respondents herein, who were impleaded as Judgment Debtor nos.3 and 4 in the Execution Petition, filed an application being I.A.6683/2019 seeking their deletion from the array of parties and also praying for vacation of the *ex-parte ad-interim* Order dated 21.11.2017 passed in the said Execution Petition. It was contended therein that the respondents were not parties to the Employment Agreement and to the arbitration proceedings, and that no direction has been passed by the learned Sole Arbitrator against the respondents which may be enforced by way of Execution Petition. They further contended that they had been arrayed as parties to satisfy the debt of the Judgment Debtor no.2, namely, TTN Ventures Pte Ltd. (Singapore), which itself has been deleted from the array of parties in



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the Execution Petition. The learned Single Judge has allowed the said application by way of Impugned Order.

5. The learned counsel for the appellant submits that the learned Single Judge has failed to appreciate that, in terms of the Arbitral Award dated 01.08.2017, the appellant has also been held entitled to be reimbursed for the full value of his shareholding in the manner/method of valuation indicated in Clause 8.2(b) of the Employment Agreement. He submits that Clause 8.2 of the Employment Agreement fastens liability on the ‘promoters’ to pay the value of the shareholding to the appellant. ‘Promoters’ is defined in Clause 15 of the ‘Glossary’ of the Employment Agreement as under:

“15. ‘Promoters’ shall mean Four Cross Media Holdings 2 Cyprus Ltd (a company established under the laws of the Republic of Cyprus and having Its registered office at Themistokll Dervl 3, Julia House, PC 1066, Nicosia; Cyprus) and Amitabh Taneja.”

6. He submits that, therefore, Four Cross Media Holdings 2 Cyprus Ltd, which in turn holds the respondents herein as its assets, is under an obligation to perform the obligation under the agreement and were, therefore, necessary and proper parties in the Execution Petition.

7. We have considered the submissions made by the learned counsel for the appellant, however, find no merit in the same.

8. As is evident from the Execution Petition, relevant portion of which has been reproduced hereinabove, the respondents were impleaded in the Execution Petition by the petitioner, alleging therein that as the Judgment Debtor no.2, TTN Ventures Pte Ltd. (Singapore), is liable to pay the amount of Rs.14,90,39,800/-, the value of the



shares, and the respondents herein, being the assets of the Judgment Debtor no.2 held in India and being owned and wholly controlled by the Judgment Debtor no.2, were being impleaded to seek the recovery.

9. Interestingly, the Judgment Debtor no.2 itself has been deleted from the array of parties to the Execution Petition *vide* an Order dated 31.05.2018 passed by the learned Single Judge on I.A.1909/2018 filed by the Judgment Debtor no.2, by observing as under:

“17. It is apparent from the above that there is no specific finding that TTN is liable for any of the claims raised by the Petitioner. The operative part of the impugned award also does not impute any liability upon TTN.

...

22. It is also clear from the above that the impugned award does not impute any liability upon TTN. While it is true that there is no express discussion as to TTN’s liability, the reason adopted by the Arbitral Tribunal for declining the Petitioner’s claim against Astro Overseas Ltd. would be equally applicable in the case of TTN as well.

23. The award must be read in a meaningful manner and merely because TTN was arrayed as a respondent does not mean that the Petitioner was entitled to recover the sums awarded in his favour from TTN.

24. For reasons stated above the application is allowed and the ad interim order dated 21.11.2017 is vacated. The above execution petition to the extent that it seeks to enforce the Award against TTN (Respondent No.2) is also dismissed.”

10. Once the Judgment Debtor no.2 has been deleted from the array of parties, the learned Single Judge cannot be faulted in directing the deletion of the respondents herein from the Execution Petition. It is to



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be emphasised that the respondents herein were not parties to the arbitration proceedings and, therefore, it cannot be said that the Arbitral Award was passed against the respondents in their own capacity or as making them personally liable under the same. In fact, as explained above, this was not even the basis of their impleadment in the Execution Petition.

11. In view of the above, we find no infirmity in the Impugned Order, and consequently, no merit in the present appeal. The same is dismissed.

12. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

SEPTEMBER 26, 2024/ns/as

Click here to check corrigendum, if any