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

+ **CS(COMM) 104/2024 & I.A. 2552/2024**

BHL FOREX AND FINLEASE LIMITED Plaintiff

Through: Mr. Vipin Nandwani, Adv. (M.
9899299404) with Mr. Gurvinder
Singh Suri, Director of the Plaintiff.

versus

INDIAN ENERGY EXCHANGE LTD Defendant

Through: Mr. Bharat Chugh and Mr. Abhinav
Agrawal, Advocates (M.
8889299671).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **28.02.2024**

1. This hearing has been done through hybrid mode.
2. The present suit arises out of lease deed dated 20th August, 2014 in respect of the suit property bearing Unit No. 3, 4, 5 and 6, having a super built up area of 14,987.73 sq. ft on the fourth floor of the commercial building named “TDI Centre” situated at Plot No. 7, Jasola District Centre, New Delhi- 110044, (hereinafter, *‘the suit property’*). The term of the said lease for a period of nine years commencing with effect from 12th October, 2014 and which as per the lease agreement was to expire on 11th October, 2023. The Plaintiff-BHL Forex and Finlease Ltd. is the landlord and the lessor of the suit property in favour of the Defendant-Indian Energy Exchange Ltd. The Plaintiff’s case is that the premises situated within the suit property was given out on lease at a monthly lease rent of Rs.15,73,712/- and the same was to be enhanced after a period of three



years. The total lease period was nine years and the lease agreement contemplated a lock in of three years.

3. Vide previous order dated 2nd February, 2024 it is recorded that the lease has come to an end in respect of the property in question. On the basis of a suit filed by the Defendant before the Id. Commercial Court, Saket the Defendant cannot continue to occupy the suit property in question. The said order reads as follows:

“14. On the other hand, Id. Counsel for the Defendant submits that after the lock-in period, lessee could terminate at any point. The Id. Counsel submits that the Defendant had issued the first notice on 11th September, 2020 calling upon the lessor to take the possession of the property and to return the ten months security deposit of approximately Rs.1.57 crore which the lessor refused to do so. Accordingly, the key has been retained by the Defendant in view of the Clause 3.5, 3.6 which clearly stipulates that the lessee shall retain the possession, if the security deposit is not returned. The said clause also stipulates that even interest is payable on the said security deposit, in case it is not refunded. The said clauses 3.5 and 3.6 of the lease agreement dated 20th August, 2014 is reproduced hereinbelow:

...

15. The Court has considered the matter. The Defendant has already filed its suit seeking refund of the ten month security deposit which is pending before the Id. Addn. District Judge at the Commercial Court Saket being 325/2022 titled Indian Energy Exchange Limited v. BHL Forex and Finlease Limited. The said suit is stated to be at the stage of Defendant's evidence.

16. The present suit has been filed at a later stage, after the Defendant had instituted its suit in 2022.

17. In the overall facts and circumstances of the



case, the opinion of this Court is that since the lease period of nine years has itself come to an end, certain conditional orders can be passed such that the Plaintiff can be handed over the keys of the suit property so that the same can be put to use by the Plaintiff and it can derive rental income thereon.

18. Accordingly, let Senior competent officials, who are capable of taking decisions, on behalf of both the parties be present in Court on the next date of hearing.

19. The above order is without prejudice to the rights and contentions of both the parties on merits.”

4. As per Mr. Bharat Chugh, Id. counsel for the Defendant in terms of the lease deed, until the security deposit is released, the premises cannot be handed over.

5. This Court is of the opinion that the above position would have to be adjudicated in the suit filed by the Defendant and the arrears of rent being claimed in the suit by the Plaintiff would also require adjudication.

6. However, since the term of the lease has itself come to an end, this Court is of the opinion that the Defendant cannot continue to retain the property to the detriment of the landlord. Accordingly, it is directed that the keys of the suit property shall be handed over to the Plaintiff-Director, namely, Mr. Gurvinder Singh Suri, who is present in Court today. Defendant's Director-Mr. Vineet Harlalka has handed over the keys to the Plaintiff-director.

7. The aforementioned transfer of keys shall occur without prejudice to the rights and contentions of both parties, namely, the Plaintiff in the present suit and the Defendant in the suit pending before the Id. Commercial Court, Saket.



8. Issue Summons. Summons are accepted by Mr. Bharat Chugh, Id. Counsel. Let the written statement be filed by the Defendant within the timelines prescribed in law in terms of the Delhi High Court (Original Side) Rules, 2018.
9. List before Joint Registrar for admission/denial on 29th April, 2024. List before the Court on 13th August, 2024.
10. The Id. Commercial Court, Saket shall proceed with the suit filed by the Defendant, uninfluenced by the handing over of keys relating to the suit property in possession of the Defendant to the Plaintiff-Director. Both the parties i.e. the Plaintiff-Director and the Defendant are present in Court.
11. In terms of the above order, **I.A. 2552/2024** under Order XXXIX Rules 1 and 2 CPC stands disposed of.
12. The parties are permitted jointly visit the suit property.
13. Post-lunch, Id. Counsel for the Defendant has mentioned the matter. It is submitted by Id. Counsel that since the keys have been handed over today, in order to avoid any future disputes as to the status of the suit property, a Local Commissioner may be appointed to inspect the suit property today itself.
14. Accordingly, **Mr. Rishav Ambastha, Adv. [M: 7259528273]** advocate who is present in Court is appointed as the Local Commissioner to visit the suit property today at 6:00 p.m. to inspect the premises and make a video recording of the entire premises at plot No. 7, Jasola District Centre, New Delhi- 110044 and give a detailed report regarding the said property. If there are any belongings of the Defendant, the same may be inventorised and returned to the Defendant. The fee of the Local Commissioner is fixed at Rs.75,000/-, excluding out of pocket expenses, including travel, etc.,



which is to be borne by the Defendant. The report of the Local Commissioner shall be filed within two weeks.

15. Copy of the order be served to the parties at the time of execution of commission.

16. *Dasti* under signatures of the Court Master.

PRATHIBA M. SINGH, J

FEBRUARY 28, 2024

Ssc/dj/bh