

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil First Appeal No. 568/2022

1. M/s Tetraskelion Software Pvt. Ltd., Head Office 68/381, Sector 6, Pratap Nagar, Sanganer, Jaipur, Through Ceo.
2. Managing Director, M/s Tetraskelion Software Pvt. Ltd. Head Office 68/381, Sector 6, Pratap Nagar, Sanganer, Jaipur.

----Appellants

Versus

M/s Travel Spirit International Pvt. Ltd., Registered Office I-84, (Second Floor), Lajpat Nagar-Second, New Delhi-1100024 And, Head Office 218, Splendor Forum, Jasola District Centre, New Delhi-110025.

----Respondent

For Appellant(s)	:	Mr.Gaurav Rathore, Adv.
For Respondent(s)	:	Mr.Alok Garg, Adv.

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

11/05/2023

Heard on stay application.

Learned counsel for the appellant submitted that the Court below without considering the documentary evidence as well as oral evidence, has passed the impugned judgment dated 09.06.2022.

Learned counsel for the appellant submitted that the appellant had proved before the Court below that the software, which was provided, was in fact used by the respondent-company and further there was communication made via different e-mails,

conveying to the appellant that installation services and training provided by them, was good and excellent.

Learned counsel for the appellant further submitted that the award of interest @12% per annum of the decretal amount of Rs.3,89,108/- from 21st December, 2016 to 16th March, 2018 is also excessive and not as per law.

Learned counsel Mr.Alok Garg appearing on behalf of the respondent submitted that the Court below, after taking into account the entire evidence, has come to the conclusion that the appellant is liable to pay the decretal amount to the respondent.

Learned counsel for the respondent also submitted that the present stay application filed by the appellant is also not maintainable, as the application has been filed under Section 151 C.P.C.

Learned counsel for the respondent further submitted that even the description in the title and cause title of the appellant is not correct and the appellant is not functioning on the address, as has been given in the memo of appeal.

Learned counsel for the respondent further submitted that the money decree has been passed by the Court below and without putting any stringent conditions, this Court may not be inclined to stay operation of the money decree.

We find that the matter requires adjudication on merits.

We have heard the submissions made by learned counsel for the parties and considered prima-facie case for passing interim order.

We direct that the effect and operation of the impugned judgment and decree dated 09.06.2022, shall remain stayed provided the appellant deposits 50% of the decretal amount with the Commercial Court within a period of four weeks from today.

This Court permits the respondent to withdraw the said amount from the Commercial Court, after giving an undertaking that in case, appeal of the appellant would be allowed, the respondent would be liable to refund the amount, so received by him along-with interest @ 6% per annum.

Accordingly, the misc. stay application stands disposed of.

List the matter after five weeks.

(ASHUTOSH KUMAR), J

(ASHOK KUMAR GAUR), J