

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 2537/2022

Indo Thai Airport Management Services Pvt. Ltd., Having Its Registered Office At Silver Arcade, Room No. S-2, 2Nd Floor, 5 JBS Halden Avenue, Kolkata-7001105 And Local Office At Jaipur International Airport, Sanganer, Jaipur. Through Its Deputy Airport Manager, Shri Jimmy Jose S/o Shri K.J. Jose.

----Appellant

Versus

Airport Authority Of India, Having Its Branch Office At Jaipur International Airport, Sanganer, Jaipur, Through Mr. Hansraj, Manager(H.R.)

----Respondent

For Appellant(s)	:	Mr. N.K. Maloo, Sr. Adv. with Mr. Abhimanyu Singh Yaduvanshi
For Respondent(s)	:	Ms. Sukriti Kasliwal with Ms. Priyanka Tiwari

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Order

16/12/2022

The matter comes up on two applications; one filed by the appellant (3/2022) seeking immediate release of the equipments lying in custody of the respondent and second (2/2022) filed by the appellant for submitting solvent security.

Vide its order dated 31.10.2022, this Court, while deciding the application (1/2022) filed by the appellant, ordered that on furnishing of a solvent security of Rs.50,00,000/- to the satisfaction of the Registrar (Judl.) of this Court and additionally on furnishing a personal undertaking for rest of the due amount by the appellant with the Eviction Officer, Airports Authority of

India, Jaipur International Airport, Jaipur within a month from today to the effect that if ultimately appeal is dismissed, the appellant would comply with the order dated 22.09.2022 passed by the Eviction Officer, the equipments as mentioned in the list (Annexure-16) shall be released by the respondent to the appellant. It is stated in the application (3/2022) that in pursuance thereof, the appellant has not only furnished its undertaking; but has also submitted a solvent security of Rs.50,00,000/- to the satisfaction of the Registrar (Judl.); still, the equipments are not being released in terms of order dated 31.10.2022. Hence, a direction is sought for the respondent to immediately release the equipments.

The respondent has filed reply to the application as also objection to the sufficiency of the solvent security furnished by the appellant.

Learned counsel for the respondent, drawing attention of this Court towards the provisions of Rules 104 and 110 of the Rajasthan High Court Rules, 1952 (for brevity, "the Rules of 1952"), would submit that security has to be in the 'form' as prescribed therein. She submitted that the paper of the immovable property submitted as solvent security does not meet the requirement under Rule 110 and hence, could not have been accepted as solvent security. She further submits that though the Registrar (Judl.) has recorded a satisfaction; but, it is not in conformity with the Rules of 1952. She, therefore, prays that the application filed by the appellant be dismissed and it may be required to submit the solvent security in terms of Rules 104 and 110 of the Rules of 1952. She, in support of her submissions, relies upon following judgments:

(1) **Anurag Kumar Singh and Ors. Vs. State of Uttarakhand and Ors.** and another connected matter: **(2016) 9 SCC 426.**

(2) **Union of India Vs. Kuldeep Singh: (2004) 2 SCC 590.**

(3) Judgment dated 04.03.2022 passed by the **Hon'ble Bombay High Court in case of Sanjay Vs. The State of Maharashtra & Ors. in Writ Petition No.2852/2020.**

Per contra, learned Senior Counsel for the appellant, inviting attention of this Court towards direction of this Court dated 31.10.2022, would submit that it was required to submit a solvent security to the satisfaction of the Registrar (Judl.) of this Court which has been complied with. The Registrar (Judl.) of this Court has recorded his satisfaction on submission of solvent security vide its order dated 24.11.2022 which is not under challenge. He submits that Rule 104 of the Rules of 1952, categorically provides that "unless otherwise ordered", the security has to be in the form as laid down therein. Learned Senior Counsel would, therefore, submit that since, it has submitted the solvent security in terms of order of this Court dated 31.10.2022, the respondent may be directed to release the equipments. Learned Senior Counsel relies upon following judgments in support of his submissions:

(1) The order of the co-ordinate Bench of this Court dated 04.03.2009 passed in case of **N.V. Naiyer Vs. M/s Dictel India Pvt. Ltd.: S.B. Civil Writ Petition No.7818/2008** and another connected matter.

(2) **Bharat Bhushan Pareek Vs. Addl. District & Sessions Judge (Fast Track), No.3, Jaipur City, Jaipur & Ors.: 2011 SCC Online Raj 1361.**

Heard. Considered.

This Court has, vide its order dated 31.10.2022, issued following directions:

"XXX It is ordered that on furnishing a solvent security of Rs.50,00,000/- to the satisfaction of the Registrar (Judl.) of this CourtXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

Pursuant to the aforesaid direction, the appellant has submitted a certified copy of the registered conveyance deed dated 25.05.2022 executed in favour of the M/s Skyline Mercantile Pvt. Ltd. which, indisputably, is worth more than Rs.50,00,000/-, along with an affidavit of Shri Jimmy Jose, the Deputy Airport Manager of the appellant-company. An affidavit by Shri Vikas Ladia, Director in M/s Skyline Mercantile Pvt. Ltd. in the shape of a solvent security, has also been filed stating therein that the property in the conveyance deed is free from any encumbrance whatsoever and no encumbrance will be created till the security is discharged. On submission of these documents, the Registrar (Judl.) of this Court has, vide its order dated 24.11.2022, recorded satisfaction as to it being solvent security. In view thereof, this Court is satisfied that order of this Court dated 31.10.2022 has been complied with by the appellant.

Contention of the learned counsel for the respondents that security furnished by the appellant is not in the prescribed form as envisaged under Rules 104 and 110 of the Rules of 1952, does not merit acceptance in view that Rule 104 itself stipulates that the security may not be in the form as required under the Rules of 1952 if the Court directs otherwise which is the case herein.

Upshot of the aforesaid discussion is that the applications filed by the appellant deserve to be allowed.

The applications No.2/2022 & 3/2022 are allowed accordingly.

The respondent is directed to release the equipments of the appellant forthwith.

(MAHENDAR KUMAR GOYAL),J

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RAJASTHAN HIGH COURT



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