

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.4227 OF 2011
[Arising out of SLP(C)No.12025 of 2011]

M/S ABHIYAAN LOGISTICS	...	Appellant(s)
Versus		
VODAFONE ESSAR SPACETEL LTD.	...	Respondent(s)

O R D E R

Leave granted.

2. The appeal is directed against the judgment and order dated 13th April, 2011, passed by the Madhya Pradesh High Court at Jabalpur, in Arbitration Appeal No.10 of 2011, filed by the appellant herein under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'). The said appeal had been filed against an order passed by the Eleventh Additional District Judge, (Fast Track Court), Bhopal(M.P), in Arbitration Case No.03 of 2011, under Section 9 of the Act.

3. By virtue of the order against which the appeal had been filed, the trial court had directed that upon payment of Rs.Two Crores and furnishing of Bank Guarantee of Rs.Six Crores, thereby securing the claim of the appellant as on

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that day amounting to Rs.Eight Crores, the goods which were lying in the warehouse of the appellant should be released in favour of the respondent. The High Court did not interfere with the order passed by the trial court, and, accordingly, the present appeal has been filed by M/s.Abhiyaan Logistics, which was also the appellant before the High Court.

4. It appears that pursuant to the order passed by the trial court, as affirmed by the High Court, the appellant has already received payment of Rs.Two Crores and the

respondent has also furnished a Bank Guarantee for Rs.Six Crores in terms of the order.

5. Appearing for the appellant, Mr. Ravindra Shrivastava, learned senior counsel, submitted that since the appellant had a lien over the goods in question, which is disputed on behalf of the respondent, the order passed by the trial court, as affirmed by the High Court was inequitable since only a portion of the dues was directed to be paid, whereas the major portion has been directed to be secured by way of Bank Guarantee.

6. Having heard learned counsel for the parties, we dispose of the appeal by modifying the order passed by the trial court, as well as the High Court, to the extent that in addition to payment of Rs.Two Crores, the respondent

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shall also pay to the appellant a further sum of Rs.2.5 Crores within two weeks from date and upon such payment, the respondent will be entitled to remove the goods in question from the warehouse of the appellant and instead of furnishing Bank Guarantee for Rs.Six crores, the respondent shall be required to furnish Bank Guarantee for a sum of Rs.3.5 Crores, which is to be kept valid for a period of one year or until further orders that may be passed in the event an Arbitrator is appointed to go into the disputes between the parties. The learned Arbitrator, if appointed, will be at liberty to pass further orders in the matter.

7. The costs imposed by the High Court are set aside. We make it clear that we have not gone into the question of the actual dues of the appellant and in the event any arbitration proceedings are commenced, the appellant will be at liberty to raise such grounds in such proceedings as it may be advised, in accordance with law.

8. On behalf of the respondent, it is submitted that the contempt petition, which has been filed, shall be withdrawn.

.....J.
(ALTAMAS KABIR)

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(CYRIAC JOSEPH)

NEW DELHI;
May 10, 2011.

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ITEM NO.19

COURT NO.2

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12025/2011
(From the judgement and order dated 13/04/2011 in AA No. 10/2011
of The HIGH COURT OF M.P AT JABALPUR)

M/S ABHIYAAN LOGISTICS

Petitioner(s)

VERSUS

VODAFONE ESSAR SPACETEL LTD.

Respondent(s)

(With appln(s) for exemption from filing O.T. and with prayer for
interim relief)

Date: 10/05/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Nishant Jain, Adv.
Mr. Arjun Garg, Adv.
Mr. Anup Jain, Adv.

For Respondent(s) Mr. K.K. Venugopal, Sr. Adv.
Mr. A.M. Singhvi, Sr. Adv.
Mr. Manu Nair, Adv.
Mr. Kirat Singh Nagra, Adv.
Mr. Adit Pujari, Adv.
Mr. Gopal Shankar Narayan, Adv.
For M/S Suresh A. Shroff & Co., Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

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(Sheetal Dhingra)
Court Master

(Juginder Kaur)
Court Master

[Signed order is placed on the file]