

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

S.B. Civil Writ Petition No. 7635/2020

Supreme Transport Organization Private Limited, Through Its Authorized Signatory Mr. Satendra Kumar Ravi Son Of Shri Prem Singh, In The Capacity Of Operation Manager Having Its Registered Office At 5B, 34, Akshay Mittal Industrial Estate, Mv Road, Andheri East Mumbai 400059.

----Petitioner

Versus

Airport Authority Of India, Jaipur Airport Jaipur Through Mis. Hemlata Naglot, Manager Commercial Terminal -1, Jaipur Airport.

----Respondent

For Petitioner(s) : Mr. Peeyush Nag
Mr. Avinash Kumbhaj
For Respondent(s) : Mr. Rishi Kapoor, through V.C.

HON'BLE MR. JUSTICE INDERJEET SINGH

Order

09/11/2021

1. Application for early listing is allowed.
2. This writ petition has been filed by the petitioner with the following prayers;

"It is, therefore, humbly prayed that this Hon'ble Court be pleased to call for the entire record relating to the case of the petitioner and after perusing the same may be pleased to accept and allow this writ petition:-

1. By appropriate writ, order or direction, the order dated 20.07.2020 may kindly be quashed and set aside.

2. By appropriate writ, order or direction, the Learned Authority be directed to decide the preliminary objection before deciding other issues involved in the present case.

3. Any other appropriate order or direction which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case".

3. Brief facts of the case are that the petitioner entered into a licence agreement for space with the respondent(s) on 11.09.2016 and the licence agreement of the petitioner came to an end in the month of August, 2018 and the same was not renewed thereafter by the respondent(s), thereafter, the respondent(s) initiated the eviction proceedings vide notice dated 3/4-3-2020 (Annexure-3) and the petitioner filed reply to the said notice and took a preliminary objection with regard to appointment of Eviction Officer and not invoking the arbitration clause. The Eviction Officer finally heard the matter on 21.07.2020 and thereafter the petitioner has filed the present writ petition before this Court on 22.07.2020.

4. Counsel for the petitioner submits that the Eviction Officer is the same person who has signed the agreement, therefore, prayed for quashing of the proceedings pending before the Eviction Officer. Counsel further submits that Eviction Officer has failed to decide the preliminary objection taken by the petitioner before him.

5. In support of his contention counsel relied on the judgment passed by the Hon'ble Supreme Court in the matter of **Gullapalli Nageswararao & Ors. Vs. State of A.P. & Ors. reported in AIR 1959 SCC 1376.**

6. Counsel for the respondent(s) submitted that once the petitioner has participated in the eviction proceedings, he is estopped to file the present writ petition as the petitioner cannot avail two parallel remedies at the same time with regard to his grievances. Counsel further submits that eviction officer in its order dated 20.07.2020 has mentioned that the preliminary objection taken by the petitioner is also covered by the reply

submitted by him, therefore, the eviction officer finally heard the matter on 21.07.2020 and when the matter was fixed for submission of written arguments the petitioner has filed the present writ petition in which an interim order has been passed by this Court on 23.07.2020.

7. Counsel further submits that throughout the country the Airport Director has been appointed as Eviction Officer including the Jaipur Airport Authority vide circular dated 04.06.2010 by the Airport Authority of India.

8. Counsel for the respondent(s) relied on the judgment passed by the Hon'ble Supreme Court in the matter of **Mumbai International Airport Pvt. Ltd. Vs. Golden Chariot Airport & Anr. reported in 2010 (10) SCC 422 where in Paras- 61, 62**

& 63 it has been held as under;-

"61. Under Section 3 of the 1971 Act, the Central Government's power to appoint an Estate Officer is provided. From the compilation of notifications that have been filed in this case by the learned Attorney General, appearing for AAI, it transpires that the Ministry of Civil Aviation and Tourism, Department of Civil Aviation, issued a notification dated 1.7.1997, appointing several persons as Estate Officers for the purpose of the 1971 Act. That notification was published in the Official Gazette. By a further notification dated 15.5.2007, published in the Official Gazette, the Central Government amended its previous notification and for the words 'Airport Director', the words 'Deputy General Manager (Land Management)' were substituted.

62. It has not been argued by the learned Counsel for the contesting respondent that while issuing a notification under Section 3, the Central Government will have to name a person or an individual as an Estate Officer. The appointment of such Estate Officer is by designation only. It is not in dispute that Mr. K.K. Gupta, who functioned as an Estate Officer and decided the case of the

contesting respondent, was promoted and brought to Mumbai as Deputy General Manager (Land Management). This is admitted in the affidavit of the contesting respondent. Therefore, Mr. K.K. Gupta by virtue of his designation as Deputy General Manager (Land Management) discharged his function as a valid Estate Officer. There can be no dispute about his authority to do so since by the subsequent notification dated 15.5.2007, the words 'Airport Director' have been substituted for words 'Deputy General Manager (Land Management)'. Hence, there is no substance in these contentions of the contesting respondent.

63. This Court even acting as an Appellate Authority does not discern any error in the Order dated 29.4.10 of the Estate Officer. The appeal filed by the contesting respondent before the City Civil Court, Mumbai and transferred to this Court is therefore dismissed".

9. Counsel further relied on the judgment passed by the Bombay High Court in the matter of **Sanjay Kumar Ashta Vs. Eviction Officer** where in Para-9 it has been held as under;

"9. A perusal of the order dated 12.10.2018 shows that respondent No.1 has specifically observed that in view of the orders dated 10.08.2018 of this Court and 05.10.2018 of the Apex Court, the issue of jurisdiction will be decided at the time of disposal of the eviction proceedings. Thus, the respondent No.1 has not concluded the issue of jurisdiction and the same will be decided along with the main application for eviction. In view thereof, I do not find that the respondent No.1 has committed any error in passing the order on 12.10.2018. In so far as the challenge to the order dated 23.10.2018 is concerned, the first respondent had directed the parties to file affidavit of evidence. In view thereof, I do not find that the first respondent has committed any error in issuing directions contained in order dated 23.10.2018. Hence, Petition fails and the same is dismissed."

10. Heard counsel for the parties and perused the record.

11. The Hon'ble Supreme Court in the matter of ***Jai Singh Vs. Union of India and Others reported in SCC (1977) 1 SCC 1***

where in para-4 it has been held as under;

"4. The High Court dismissed the writ petition on the ground that it involved determination of disputed questions of fact. It was also observed that the High Court should not in exercise of its extraordinary jurisdiction grant relief to the appellant when he had an alternative remedy. After hearing Mr. Sobhagmal Jain on behalf of the appellant, we see no cogent ground to take a view different from that taken by the High Court. There cannot, in our opinion, be any doubt on the point that the extent of purity of the gypsum won by the appellant is a question of fact. It has also been brought to our notice that after the dismissal of the writ petition by the High Court, the appellant has filed a suit, in which he has agitated the same question which is the subject-matter of the writ petition. In our opinion, the appellant cannot pursue two parallel remedies in respect of the same matter at the same time".

12. This writ petition filed by the petitioner deserves to be dismissed for the reasons; firstly, admittedly the petitioner has participated in the eviction proceedings before the eviction officer and, in my considered view, the petitioner cannot avail two parallel remedies in respect of the same matter at the same time as has been held by the Hon'ble Supreme Court in the matter of Jai Singh (supra); secondly, the final arguments with regard to preliminary issue as well as the main application have been heard by the eviction officer on 21.07.2020; lastly, the term of the petitioner's licence agreement has already expired in the month of August, 2018, thereafter, the petitioner has no legal right to continue at place of airport authority.

13. Hence, this writ petition is dismissed.

14. All the pending applications stand disposed of.

(INDERJEET SINGH),J

CHETNA BEHRANI /83

RAJASTHAN HIGH COURT



सत्यमेव जयते

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

S.B. Civil Writ Petition No. 7635/2020

Supreme Transport Organization Private Limited

----Petitioner

Versus

Airport Authority Of India

----Respondent

For Petitioner(s) : Mr.Peush Nag.

For Respondent(s) : Mr.Rishi Kapoor.

(Through Video Conferencing)

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

22/10/2020

Learned counsel for the petitioner Mr.Peush Nag submitted that copy of the reply as well as application for vacation of ex-parte interim order was received by them in the month of August, 2020, however, on account of COVID-19 the petitioner was not able to contact the Lawyer and as such, rejoinder could not be filed.

This Court finds that learned counsel for the petitioner has already sought time on earlier occasion and as such, last opportunity is granted to learned counsel for the petitioner to file rejoinder/reply to the stay vacation application.

This Court makes it clear that if no such pleadings are filed, the Court would take up the matter on the next date of hearing in absence of such filing.

Learned counsel for the petitioner undertakes to send copy of the rejoinder/reply to the stay vacation application to the counsel for the respondents by way of E-mail.

List on 09.11.2020.

(ASHOK KUMAR GAUR), J

Himanshu Soni/27/Ramesh Vaishnav

RAJASTHAN HIGH COURT



सत्यमेव जयते

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Supreme Transport Organization Private Limited

----Petitioner

Versus

Airport Authority Of India

----Respondent

For Petitioner(s) : Mr. Avinash Kumbhaj

For Respondent(s) : Mr. Deepak Gupta

HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Order

15/10/2020

As prayed, list this case on 20.10.2020.

Interim order, if any, to continue.

(SANJEEV PRAKASH SHARMA),J

NITIN /194



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Supreme Transport Organization Private Limited

----Petitioner

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For Petitioner(s) : Mr. Avinash Kumbhaj
Mr. Peush Nag

For Respondent(s) :

HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Order

23/07/2020

Issue notice of the writ petition as well as the stay application, returnable within four weeks.

Meanwhile, the effect and operation of the order dated 20th July, 2020 shall remain stayed and the respondent is restrained from passing any further order.

(SANJEEV PRAKASH SHARMA),J

FATEH RAJ BOHRA /6-C1

सत्यमेव जयते