Daily Order Sheet

Before Mr. J S Balhara, Eviction Officer, Airports Authority of India, Jaipur

Application
IN
Recovery Case No. 1/2020

In the matter of:

Airports Authority of India, Jaipur..... Applicant

Versus

Supreme Transport Organisation Pvt. Ltd .... Respondent

Date 26.06.2020

That Ld. Counsel Mr. Rishi Kapoor for Petitioner had filed an early hearing Application for preponement of the hearing in lieu of Video conferencing facility being in place and enough time to file reply has already been given to the Respondent.

Both the Counsels heard via video conferencing at 4:30 pm. The Respondent also filed their reply to the Early hearing Application with an advanced copy served to the Petitioner/Applicant.

I have heard both the Counsels and have reserved the order for 29.06.2020.

The Eviction Officer
Airports Authority of India
Jaipur Airport
Jaipur-302029
Date 26.06.2020

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Before Mr. J S Balhara, Eviction Officer, Airports Authority of India, Jaipur

Recovery Case No. 1/2020

In the matter of:

Airports Authority of India, Jaipur..... Applicant

Versus

Supreme Transport Organisation Pvt. Ltd.... Respondents

Date of order reserve: 26.06.2020
Date of pronouncement : 29.06.2020

That on the request of Ld. Counsel Mr. Rishi Kapoor for Petitioner had filed an early hearing Application for preponment of the hearing in lieu of Video conferencing facility being in place and enough time to file reply has already been given to the Respondents. The core ground for early hearing was to curtail the time period given to the Petitioner's Counsel for filing Rejoinder and to list the matter for final arguments, as the Airports Authority of India has been facing loss every day.

The request submitted by the Counsel of Respondent to file reply within 6 weeks from last date of hearing, i.e. 01.06.2020 and the same ends on 13.07.2020.

In lieu of this, I find no point or ground for an early hearing to be advanced to the Petitioner/Applicant that too only for 3 days.

The Application for early hearing of Petitioner/Applicant stands **dismissed**.

However, I would again like to point out to Counsels of both the Parties to strictly adhere the Order dt. 01.06.2020 and follow the time lines given for the pleadings and be prepared for final arguments hearing on the next date, i.e. **20.07.2020**.

The Eviction Officer
Airports Authority of India
Jaipur Airport
Jaipur-302029
Date 29.06.2020

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BEFORE THE EVICTION OFFICER
AIRPORTS AUTHORITY OF INDIA
JAIPUR AIRPORT, JAIPUR

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EVICTION APPLICATION NO. 01/2021

Airports Authority of India, Jaipur Airport, Sanganer, Jaipur, through Mr Shiv Ram Meena, Dy. General Manager (Air Traffic Management)

....Applicant

VERSUS

Supreme Transport Organization Private Ltd. having its Registered Office at 5 B 34, Akshay Mittal Industrial Estate, M.V Road, Andheri (E), Mumbai-400059 through President & CEO, Mr. Ammeet Kamal Agarwal

....Respondent

APPLICATION FOR EVICTION & COUNTER CLAIM OF RESPONDENTS

ORDER

The Applicant filed an Application on 17.02.2021 against the Respondent seeking Eviction. Having gone through the contents of the said Application as well as documents submitted in support thereof, I was prima facie of the view that Applicant had shown a good case for eviction and accordingly, on 17.02.2021, I issued a Show Cause Notice under Section 28C of the Airports

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Authority of India Act, 1994 calling upon Respondent to show cause as to why this application of eviction be not allowed and posted the matter to 25.02.2021 at 12 PM. On 25.02.2021 Advocate Mr. Manish Sharma appeared on behalf of Respondent and sought time to file Vakalatnama along with reply on the next date of hearing. As such, matter was adjourned with a direction to supply copy of Reply in advance before the next date i.e., 2.03.2021. It was on 2.03.2021 during the course of proceedings that Respondent filed its reply. However, counsel for the Applicant Advocate Sukriti Kasliwal sought time to file Rejoinder stating that Respondent has raised counter claim, which is required to be addressed. Accordingly the matter was adjourned to 12.03.2021 with a direction to supply Rejoinder in advance by 9.03.2021 to the Respondent. Applicant supplied copy of Rejoinder through E-mail to Eviction Officer as well as Respondent on 09.03.2021, however on 12.03.2021 counsel for Respondent sought time to file Sur-Rejoinder, permission was granted and matter was next listed on 26.03.2021 for final arguments. Respondent was directed to supply copy of Sur-rejoinder in advance to counsel for the Applicant. However, it was only on 26.03.2021 that Sur-Rejoinder was provided as a result counsel for Applicant sought time for final arguments and the matter was adjourned to 31.03.2021 for final arguments.

The matter was taken up on 31.03.2021 for final arguments. During the course of arguments, counsel for the Applicant, Advocate Sukriti Kasliwal submitted that Respondent is a Non-Scheduled Charter Operator who obtained Air Operator Permit on 6.05.2016 to be valid upto 5.05.2018. In furtherance thereof Respondent also applied for allotment of overnight parking stand for one

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CESSNA GRAND CARAVAN 208 B Aircraft at the Jaipur Airport, which was granted vide letter dated 09.06.2016 to be valid until 8.03.2017 and was extended upto 7.09.2017. Subsequently, Respondent sought allotment of additional overnight parking stand for another CESSNA GRAND CARAVAN 208 B Aircraft, which was also granted vide letter dated 3.04.2017 upto 2.10.2017. It was submitted that even after the permissions for parking the said two aircrafts namely VT-SAI and VT-UDN, respectively came to expire, Respondent continues to parked the said two aircrafts at the Jaipur Airport on 19.07.2018 and 14.09.2018, respectively and since then continue to occupy to airport premises unauthorizedly. As a result they have become 'unauthorized occupant' under the provisions of the Airports Authority of India Act, 1994 of the Airport Premises at Jaipur Airport and therefore Applicant deserves to a get them evicted from the Airport Premises.

It was further stated that in Reply, Respondents have raised a counter claim and sought adjustment of pending dues against Security Deposit of Rs 16,28,263/-. In this regard, it was submitted that initially Respondent availed the Credit Policy from the CHQ Level and deposited advance security deposit of Rs 6,00,000/- for one aircraft VT-SAI on 5.12.2016 and thereafter another Rs 6,00,000/- on 18.10.2017 for another Aircraft VT-UDN. This credit facility was extended upto 13.11.2017 for its operations all over India. Out of which only Rs 6,00,000/- was allocated to the entire Northern Region of which State of Rajasthan is only one. However, after 18.10.2017 Respondents did not deposit additional security deposit with the CHQ, because of which total outstanding dues became Rs 20.77 Lac, which clearly exceeded the security

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deposit. As a result, CHQ vide its letter dated 9.10.2018 marked as Annexure 11 called upon Respondents to immediately deposit the outstanding dues failing which the credit facility will be withdrawn and operations of Respondent will be put on Cash and Carry basis. Further vide letter dated 16.10.2018 all the regions were directed to claim their respective dues alongwith penal interest as per credit policy. It was submitted that besides parking charges, which have been claimed separately with the leave of the Eviction officer vide Application No. 2/2021, Respondent is also liable to pay an amount of Rs. 6,77,154/- towards the facilities (aeronautical) charges for operating flights at Jaipur, Jodhpur, Bikaner, Jaisalmer & Kota airports along with interest @18% p.a which amounts to Rs. 3,25,587/- i.e., a total amount of Rs 10,02,741/- towards aeronautical charges for the services availed at Jaipur, Jodhpur, Bikaner, Jaisalmer and Kota. Reliance was also placed on Annexure 14 and 15 which are duly certified list of outstanding dues as well as invoices raised from time to time to the Respondent. It was submitted that this amount has been arrived at after settlement of security deposit and certain amounts paid by Respondent from time to time. It was further specifically denied that at present an amount of Rs 16,28,263/- of Respondent is lying deposited with the Applicant.

In response, Counsel for Respondent Advocate Manish Sharma submitted that the Air Operator Permit of the Respondent has not expired and it is valid till which is evident from the response provided by the CPIO to the RTI filed by the Respondent. It was further submitted that the total Security amount deposited by the Respondent to the applicant as on the date is Rs. 16,28,263/-

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whereas the total amount payable by the Respondent amounted to Rs. 14,25,335/- which is lesser than the security deposit so the same shall be adjusted against their pending dues and as actually nothing is payable they may be permitted to carry out test flights. Reference was made to pleadings and documents filed in support thereof. Thereafter table given on page no. 5 of the rejoinder as well as page no. 5 of the sur-rejoinder was compared to state that the contents are contrary to the pleadings where Applicant has stated that Aircrafts have been parked since 19.07.2018 whereas the table shows invoices being raised for aeronautical charges since 7.08.2018. Reliance was also placed on Annexure R/2 to state that as per Respondent the total outstanding dues towards traffic charges was Rs 10,14,437/- and towards counter rent was Rs 4,10,898/- whereas amount deposited towards security at different airports mention was Rs 16,28,263 and therefore also nothing is payable. It was also stated that the Aircraft has been allotted certificate of registration which is valid till 10.01.2025 and special flight permit was also been given on 11.02.2021 marked as Annexure R/5 but despite the same Applicant is not permitting Respondent to conduct test flights which is a pre-requisite for getting further permits and renewal of Air Operator Permit and thus causing hindrances. That the Respondent also submitted that the amount of Rs. 10,02,741/- towards the traffic revenue is vague as the Applicant till date has not provided the details of invoices towards which the security deposited amount has been adjusted and the Applicant had never shared the detailed breakup of said amount till date. The Respondent submitted that despite asking numerous times vide different E-mails, Applicant has not provided the breakup of the outstanding dues. That the Respondent relied on its letter dated 20.10.2018 (Annexure S-R/4) stating that

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in a meeting with RED(NR) it was decided that WHE would be charged only for occasional movements where authority has to stay beyond 8 hours of duty time on request of the operator. Therefore also the demand is bad in as much as it has considered WHE charges. It was also submitted that no interest is payable as no invoice was ever raised and/or sent to Respondent, in this regard reliance was also placed on email dated 12.10.2017 marked as Annexure SR-5.

In rebuttal, Counsel for Applicant Advocate Sukriti Kasliwal submitted that even if the Air Operator Permit was renewed, a bare perusal of Annexure R-3 goes to show that said Air Operator Permit was also valid only till 19.09.2019 and therefore admittedly, at present there is no valid permit in favour of Respondent. Moreover, Respondent has failed to show that it has any valid parking permit either. It was also submitted that it is wrong to say that Applicant cannot modify its prayer subsequently and claim outstanding dues besides claiming eviction, as firstly, principles of Code of Civil Procedure are not attracted to the present proceedings, which are summary in nature and secondly, the claim with respect to the Aeronautical charges has been raised in reply to the Counter Claim filed by Respondent along with its reply claiming adjustments towards alleged security deposit. Moreover, table given in page no. 5 of the rejoinder is duly supported by documents marked as Annexure 14 and Annexure 15, which includes invoices raised for services rendered. It was further submitted that a bare perusal of the invoices also show that each invoice mentions flight details and therefore contention of the Respondent that some of the invoices related to date post 19.07.2018 and therefore are fabricated and denied, is baseless. It was stated that a better look at Annexure-14 and

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Annexure-15 shows that invoices raised between 19.07.2018 and 14.09.2018 are infact in respect of VT-UDN and not VT-SAI. Moreover, it is an admitted case of Respondent (Annexure R/2) that even as per Respondent's own statement of accounts, a total amount of Rs 10,14,437/- is outstanding and payable towards traffic charges/Renewal. It was also stated that Respondent's claim that there is a total security deposit of Rs 16,28,263/- is baseless and hence denied. A bare perusal of the table shows that Respondent has taken into consideration security deposit of Rs 12,00,000/- which was deposited with the CHQ at the time of availing credit facility all over India for its operation. Reliance was placed upon letter marked as Annexure-11 to state that this amount was long back adjusted when at the time of issuance of letter dated 09.10.2018 the total outstanding dues was Rs 20.77 Lac. It was also stated that the amounts mentioned towards security deposits at Jaipur airport, Jodhpur Airport, Bikaner Airport, Kishangarh Airport and Udaipur Airport relate to deposits made in the year 2016 and 2017. It was submitted that outstanding dues are being claimed after adjusting these security deposits as is evident from Annexure-14 and Annexure-15. Moreover, as Ahmedabad Airport is not within the State of Rajasthan, any amount due and payable is not being considered as the same is subject matter of the State of Gujarat. It was reiterated that an amount of Rs 6,77,154/- is dues towards traffic charges, on which interest is being placed on the basis of credit policy of AAI i.e., @ 18% p.a., amounting to Rs 3,25,587/- and therefore Applicant is entitled to receive an amount of Rs 10,02,741/- from the Respondents. Moreover, the counter rent mentioned in Annexure R/2 is not applicable in the present matter as dispute related to Counter Rent is governed by a separate contract executed between the parties.

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It was further stated that the certificate of registration issued by DGCA dated 31.01.2020 is issued in favor of M/s Pinnacle Air Private Ltd. and not Respondent and the special flight permits has also been given to M/s Pinnacle Air Private Limited which is a third party, who is not even party to the present proceedings and therefore these documents cannot be relied upon. It was also submitted that the correspondence relied upon by the Respondent marked as Annexure SR-1 & Annexure SR-2 does not relate to outstanding invoices which are subject matter of present proceedings moreover, SR-3 (1) is a bank statement for 1.10.2016 to 31.10.2016 and Annexure SR 3(2) relates to cash deposits at Ahmedabad in the year 2015. Clearly Annexure-SR 1 to Annexure-SR 4 cannot be relied upon in the present case which deals with outstanding dues from the year 2018. Letter dated 20.10.2018 was also referred and it was stated that this is only a letter on the letter head of Respondent. Respondent has not placed on record any document to show that it was served upon DGM (F&A) Airports Authority of India. Moreover, Respondent has also not placed on record copy of the minutes of the meeting mentioned in the email and therefore it is denied that WHE charges were ever waived. It was submitted that documents marked as Annexure SR-5 and SR-6 (1) were written in the year 2017 whereas the cause of action for the present disputes related to the year of 2018 onwards. So far as Annexure SR-6(2) is concerned, same related to access to Counter which is covered under a separate contract. It was submitted that permission sought in SR 6(3) was not granted as till date Respondent has not cleared outstanding dues and therefore no permission to access the said Aircrafts could be granted. Annexure SR6(4) is not issued by Respondent and therefore has no relevance. It was submitted that accordingly

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adjustment sought by the Respondent cannot be permitted and infact a direction needs to be given calling upon respondents to pay the outstanding dues.

I have heard both the parties and perused the contents of the Application, Reply Rejoinder as well as Sur-rejoinder and all the Documents annexed thereto and placed on record. It is submitted that upon receipt of the Application, I had issued a Show Cause Notice to the Respondent. Although no reply was filed by it to the Show Cause Notice, an application was filed subsequently, requesting that the reply to the Application may itself be treated as reply to the Show Cause Notice. In the show cause notice it was specifically asked as to whether Respondent is occupying the airport premises under any permission. However, during the course of proceedings it has come out that although initially permits were granted to the Respondent, after expiry thereof Respondent has failed to obtain any fresh permits and at present neither do they have any permission to park the said aircrafts at the Airport Premises nor have any subsisting air operator permit in their favour.

During the course of arguments, counsel for the Respondent failed to show any valid and subsisting Permit enabling them as of right to use the Airport Premises for the purposes of parking their two Aircrafts namely, VT-SAI and VT-UDN. The air operator permit expired on 5.05.2018 and parking permissions granted initially also stood expired on 7.09.2017 and 2.10.2017. Although from Annexure R-3, it appears that Air Operator Permit was extended till 19.09.2019, however Respondent has failed to

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place on record any document to show any further renewal/extension thereof or any fresh permission so granted which is presently valid. Section 28A(f) defines Unauthorized Occupation as *"in relation to any airport premises, means the occupation by any person of the airport premises without authority for such occupation by any person of the airport premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever."*. As the permits granted to the Respondent has already expired, and no valid permit for parking facility is existing, clearly Respondents are occupying the airport premises as 'Unauthorised Occupants'.

Moreover, Respondent has specifically not disputed the claim of the Applicant that its two aircrafts namely, VT-SAI and VT-UDN has been parked continuously and uninterruptedly at the airport premises w.e.f., 19.07.2018 and 14.09.2018, respectively.

As such, Respondent is liable to be evicted from the Airport Premises.

During the course of proceedings, along with the Reply, Respondent claimed following additional reliefs :

"a) Dismiss the application filed by the Applicant;

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b) Direct the applicant to adjust the actual pending dues of the Respondent against the Security Deposit of Rs 16,28,263/-

c) Direct the applicant to not take any action to evict the Respondent's Aircraft and proceed with the eviction proceedings

d) Direct the applicant to consider the applications of the Respondent for conducting test flights and avail the counters allotted at airport.

e) Pass any other or further order as this Ld. Authority may deem fit in the facts and circumstances of the case."

Although, the Application was filed only for Eviction of the Respondent, both the parties submitted dispute related to pending dues. During the course of proceedings, it has been brought to the notice of the Eviction Officer that there are certain outstanding dues which are payable towards arrears of rent and damages, in respect whereof a separate application was filed with the leave of the Eviction officer and marked as Application No. 2/2021 before the Eviction Officer. But there are certain dues payable towards aeronautical charges (traffic revenue), which are with the consent of both the parties being dealt with in the present proceedings itself.

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As such, in the present proceedings, I am not considering any dispute related to arrears of rent and damages, which are being dealt by me in separate proceedings. However, I have heard counsels of both the parties on the disputed amounted referred to in the present matter. Counsel for Respondent has referred to two nature of outstanding dues as per Annexure SR-2. Dues towards counter rent and dues towards traffic revenue. It is submitted that during the course of arguments, both the parties admitted that dispute related to Counter Rent is a separate matter, in respect whereof separate proceedings are already pending adjudication. Moreover such dispute is governed by a separate contract. However, so far as traffic revenue is concerned, Counsel for Respondent relied upon emails and other documents marked as Annexure SR1 to SR 4 to state that Respondent has already deposited enough security deposit to cover the outstanding dues towards traffic revenue. However, a closer look at these documents shows that they are not attracted to the present case which deals with outstanding dues from 2018. Applicant has filed Annexure-14 and Annexure-15 which are duly verified statement from the accounts department as well as true copies of the invoices to show that even after adjusting all security deposit there is an outstanding dues of Rs 6,77,154/- towards services obtained during flight operations at Jaipur Airport, Jodhpur Airport, Bikaner Airport, Jaisalmer Airport and Kota Airport. Although supporting documents in the nature of invoices

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and duly certified statement of accounts have been filed in respect thereof, but Applicant has failed to place invoice on record to show outstanding dues of Bikaner Airport of Rs 2,15,548/- (including interest). However, Applicant has placed on record a duly certified statement from the accounts department giving complete particulars of the two flights. In my considered view, Airports Authority of India cannot raise any such document without any basis being a statutory authority. Moreover, Respondent has failed to show any document to state otherwise. The initial security deposit submitted at the time of obtaining credit facility of Rs 12,00.000/- had already been adjusted when the total outstanding dues became 20.77 Lakh at the CHQ level itself. Moreover, out of the remaining security deposit of Rs 4,28,263/-, an amount of Rs 3,04,451/- was admitted by the Applicant but it was also submitted that said has already been adjusted towards services taken before calendar year 2018 itself. It was further disputed that any amount was paid as security before Bikaner Airport and further as Ahmedabad Airport is not covered within the state of Rajasthan, said amount was also denied for want of knowledge. I am also of the view that amounts deposited in the State of Gujarat cannot be considered in these proceedings. Moreover, Respondent has failed to prove security amount deposited towards Bikaner Airport.

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It is submitted that Respondent has failed to place on record any document to show that the invoices placed on record by the Applicant are wrong by placing on record any original record of its flights to controvert the invoices or or duly audited ledger accounts etc., and therefore in my considered view, Respondent has failed to prove that it is entitled to any adjustment of outstanding dues towards alleged security deposits, which does not exists as of today. Infact on the basis of documents on record, I am of the considered view that Respondent is liable to pay a sum of Rs 6,77,154/- towards outstanding dues towards traffic charges at different airports within the state of Rajasthan. Moreover, on the basis of invoices as well as applicable credit policy dated 14.01.2019 referred to during the course of arguments, Applicant is also entitled to claim interest @18% p.a., on the outstanding dues in accordance with Annexure 14 i.e., an amount of Rs 3,25,587/-. As such Applicant is entitled to an amount of Rs 10,02,741/- from the Respondent. It is also to be noted that Respondent also admit that an amount of Rs 10,14,437/- is due towards traffic revenue charges in Annexure R/2.

OPERATIVE PORTION

Accordingly, I hereby allow the Claim of Eviction of the Applicant and direct Respondent to vacate the Airport Premises within a period of 10 days from the receipt of this order upon payment of all outstanding dues

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including arrears of rent and damages along with interest, if any along with dues towards traffic revenue. I hereby dismiss the reliefs sought by the Respondent as actual pending dues clearly exceed the security deposit which has already been adjusted for previous dues. I hereby further direct Respondent to pay to the Applicant an amount of Rs 6,77,154/- towards outstanding dues towards traffic charges at different airports within the state of Rajasthan along with interest @18% p.a., amounting to Rs 3,25,587/- i.e., pay Applicant a total amount of Rs 10,02,741/- towards traffic revenue within a period of 7 days from the receipt of this Order. The other reliefs sought by Respondent are also accordingly dismissed. Incase if Respondent failed to follow the afore-stated directions, Eviction Officer will initiate proceedings under Section 28 E without any further notice.

Place: Jaipur
Date : 08.04.2021

J.S. Balhara
(Eviction Officer)
Airports Authority of India
Jaipur Airport
Jaipur 302029

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Airports Authority of India
Jaipur International Airport

BEFORE THE EVICTION OFFICER
AIRPORTS AUTHORITY OF INDIA
JAIPUR AIRPORT, JAIPUR

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APPLICATION NO. 2/2021

Airports Authority of India, Jaipur Airport, Sanganer, Jaipur, through Mr. Shiv Ram Meena, Dy. General Manager (Air Traffic Management)

....Applicant

VERSUS

Supreme Transport Organization Private Ltd. having its Registered Office at 5 B 34, Akshay Mittal Industrial Estate, M.V Road, Andheri (E), Mumbai- 400059 through President & CEO, Mr. Ammeet Kamal Agarwal

....Respondent

APPLICATION UNDER SECTION 28G READ WITH SECTION 28E OF THE AIRPORTS AUTHORITY OF INDIA ACT, 1994 CLAIMING ARRREARS OF RENT & DAMAGES

ORDER

The Applicant filed an Application on 12.03.2021 against the Respondent seeking arrears of Rent and Damages in respect of two Aircrafts namely

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VT-SAI and VT-UDN of the Respondent occupying airport premises without any authority. Although Applicant has already filed a separate proceeding seeking eviction, at the time of instituting the said application, Applicant had sought leave to raise this claim separately. Accordingly, and having gone through the contents of the said Application as well as documents submitted in support thereof, I was prima facie of the view that Applicant had made a case that Respondents are occupying airport premises unauthorizedly and have also not paid rent & damages in lieu thereof and accordingly, on 12.03.2021, I issued a Show Cause Notice to the Respondent calling upon it to show as to why I should not allow the Application filed by the Applicant. Advocate Mr. Manish Sharma, representing Respondent in another Application bearing no. 01/2021 listed on 12.03.2021 itself between the same parties, accepted the said Show Cause Notice on behalf of Respondent on 12.03.2021 itself and sought time to file reply. Accordingly, Respondent was given time till 23.03.2021 to submit reply to the Show Cause Notice. The matter was posted on 26.03.2021 for final arguments. However, it was on 26.03.2021 only that Respondent submitted copy of the reply. As certain additional averments were made in the Reply, counsel appearing on behalf of Applicant Advocate Sukriti Kasliwal sought some time to clarify the details with the accounts department. As a result matter was posted on 31.03.2021 at 5.30 PM for final arguments. It is pertinent to note that

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Respondent did not submit any reply to the show cause notice issued under my hand.

The matter was taken up on 31.03.2021 for final arguments. During the course of arguments, counsel for the Applicant submitted that Respondent- Supreme Transport Organisation Private Ltd is engaged in conducting Non-Scheduled Charter Commercial Air Operations [NSOP] in the domestic market in India and its Air Operator Permit-granted by the Director Civil Aviation, Government of India expired on 05.05.2018 and thereafter Respondent has neither submitted any renewal thereof nor submitted any fresh Air Operator Permit issued by the concerned authorities with the Applicant. It was further submitted that initially Respondent applied for over night parking facility stand at Jaipur Airport on 16.06.2016 for Cessna Grand Caranvan 208B, which was granted vide letter dated 9.09.2021 to be valid upto 8.03.2017 and extended upto 7.09.2017 thereafter Respondent applied for another Night Parking Stand at Jaipur Airport for additional aircraft Cessna Grand Caranvan 208 B on 25.02.2017, which was also granted on 3.04.2017 to be valid upto 2.10.2017. It was submitted that initially they entered the Airport Premises with valid permits, but subsequently the permits stood expired. However, even after expiry of the permits they continued to use and occupy the Airport Premises. It was further submitted that admittedly, the two aircrafts belonging to the Respondents namely, Aircraft Cessna 208B

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VT-SAI and Cessna 208B VT-UDN are parked at the Jaipur Airport continuously and uninterruptedly since 19.07.2018 and 14.09.2018, respectively. As per AERA policy parking charges payable are calculated on the basis of weight of the Aircraft. As per Applicant weight of the Aircraft VT-SAI is 4.11 MT & weight of Aircraft VT-UDN is 4 MT. According, to the applicable policy as the weight of both the Aircraft is less than 25 MT therefore parking charges payable is calculated @ Rs. 3/- per hour per MT. Since Aircraft VT-SAI is parked at Jaipur Airport since 19.07.2018 0803UTC, the total parking charges calculated upto 28.02.2021 2359UTC comes to Rs. 5,50,392/- and CGST & GST @ 18% comes to Rs. 99,071/- i.e. a total amount of Rs. 6,49,463/- . Similarly, as aircraft VT-UDN is parked at Jaipur airport since 14.09.2018 the total parking charges calculated upto 28.02.2021 2359UTC comes to Rs. 5,17,752/- and CGST & GST @ 18% comes to Rs. 93,195/- i.e. a total amount of Rs. 6,10,947/-. It was submitted that accordingly Applicant is entitled to claim a total amount of Rs. 12,60,410/- towards rent & damages for unauthorizedly occupying the airport premises. It was also submitted that as Respondent is continuing to occupy the airport premises, Applicant is also entitled to get mesne profit @ Rs. 1360/- per day in respect of both the Aircrafts w.e.f. 01.03.2021 till the said aircrafts are actually removed from the airport premises. It was also submitted that as per the applicable Revised Credit Policy dated 14.01.2019 of the Airports Authority of India, Applicant is entitled to claim @ 18% per

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annum payable on the amount due from 28.07.2018 & 15.09.2018 for the two aircrafts namely VT-SAI & VT-UDN, which amounts to Rs. 3,05,550/- & Rs. 2,70,256/- respectively till 28.02.2021 i.e. an amount of Rs. 5,75,806/- towards interest till 28.02.2021 and further interest @ 18% per annum w.e.f. 01.03.2021 on the aforesaid total amount during the pendency of the proceeding as well as till such amount is actually paid. During the courts of arguments reliance was also placed on the document annexed along with the application.

Counsel for the Respondent refuted the claim of the Applicant stating that no invoice was raised claiming the outstanding dues towards the parking charges. It was submitted that, it was only for the first time on 07.01.2020 that the Applicant demanded an exorbitant amount of Rs. 3,62,638/- without disclosing the breakup of the same. Multiple times Respondent asked Applicant for the breakup but it was not provided. In absence of any invoice no interest can be fastened upon the Respondent. It was further submitted that Respondent had also written an E-mail dated 02.06.2020 seeking waiver of the parking charges because of COVID-19 but Applicant did not considered the same. Moreover, Respondent had obtained all approvals & permission and paid requisite fee from time to time in respect of two aircrafts. It was further submitted that Respondent had already made payment of Rs. 8,59,161/- on 06.07.2018 and a payment of Rs. 14,50,063/- between 18.05.2018 to 19.04.2018 which is evident from Annexure R-8. Moreover, on 16.06.2016 an amount of Rs.

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60,000/- and on 21.03.2017 a further sum of Rs. 60,000/- was paid towards parking charges as is evident from Annexure R-1 and therefore also nothing is payable. It was further submitted that Respondent has always been ready to clear the bills but as invoices were not raised, dues could not be cleared. It was also submitted that although weight of the aircraft VT-SAI is 4.11 MT, weight of VT-UDN is 3.97 MT and not 4 MT. In this regard, reliance was placed to the certificate of Airworthiness marked as Annexure R-4. It was further stated that valid permits are not there as we are required to conduct the test flight to obtained the fresh permit but Applicant are not allowing us to conduct the same and therefore also we cannot be held to be liable. In support of his arguments Counsel for the Respondent relied upon the documents filed along with the reply.

In Rebuttal Arguments Counsel for the Applicant stated that the present case is purely governed by the applicable policies of Airports Authority of India, AERA etc.; and ignorance of the same cannot be any excuse. At the time of obtaining parking permits Respondent was well aware of the applicable parking charges which it would be liable to pay. As per the AERA policy marked as Annexure-10, charges shall be calculated on the basis of nearest MT. Accordingly, the charges being claimed by the Applicant have been calculated considering weight of both the aircrafts to be 4 MT each. It was further clarified that even as per the applicable credit policy marked as Annexure-30, it is specifically mentioned in the

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policy itself that non-receipt of bill or invoice shall not be considered as valid reason for non-payment of AAI dues and therefore also even in absence of any invoice, Applicant is entitled to receive the parking charges which are payable in the nature of rent & damages along with interest for any delay beyond 15 days or 30 days as the case may be as per credit policy.. It was denied that no breakup was provided in fact E-mails were exchanged showing the breakup and a clear demand was also raised in demand letter on 07.01.2021 and thereafter by legal notice dated 11.07.2020. It was further submitted that although initially a sum of Rs. 60,000/- was paid towards obtaining night parking facility for 1 Cessna Grand Carvan 208-B and at the time of obtaining additional night parking facility an additional sum of Rs. 60,000/- was also deposited but said amount has already been adjusted towards the parking facility obtained by Applicant before 19.07.2018. The present matter is categorically filed claiming parking charges payable w.e.f. 19.07.2018 till date for VT-SAI aircraft and parking charges payable w.e.f. 14.09.2018 till dated aircraft VT-UDN along with interest on delayed payments. It was further submitted that reliance upon Annexure R-8 is bad in so far as the same speaks about amount paids towards traffic charges at the Kota, Jaisalmer and Bikaner Airport and does not referred to parking charges being claimed in the present matter.

I have heard both the parties and have perused the contents of the Application, Reply as well as Documents placed on record. After

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receiving the Application seeking arrears of rent and damages, a show cause notice was issued to the Respondent specifically calling upon Respondent to explain why application be now allowed:

"1. *Because it was on the basis of Air Operator Permit dated 6.05.2016 that you were given No Objection Certificate to park the said two aircrafts at Jaipur Airport Premises, however said permission stood lapsed on 5.05.2018 and thereafter you neither placed on record any renewal thereof nor any fresh Air Operator Permit.*

2. *Because even the Permit for Night Parking Facility in respect of the two aircrafts granted initially, has expired.*

3. *Because your aircrafts namely Cessna Grand Caravan 208B VT-SAI has been parked continuously at the airport premises w.e.f., 19.07.2018 and another aircraft i.e., Cessna Grand Caravan 208B VT-UDN has been parked continuously at the airport premises w.e.f., 14.09.2018. As per applicable policy, rent/damages are payable as per applicable parking charges. However, from the records it is apparent that you have not paid any amount due and payable towards occupying the airport premises*

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by parking the said aircraft since 19.07.2018 and 14.09.2018, respectively.

4. *Because from the application and documents filed in support thereof it appears that an amount of Rs 12,60,410/- [Rupees Twelve Lac Sixty Thousand Four Hundred Ten Only] has become due and payable by you towards rent and damages for unauthorizedly occupying the airport premises by parking its two aircrafts namely Cessna Grand Caravan 208B VT-SAI and Cessna Grand Caravan 208B VT-UDN.*

5. *Because an amount of Rs 1,360/- [Rupees One Thousand Three Hundred Sixty Only] is also payable for each day till such date that two aircrafts namely Cessna Grand Caravan 208B VT-SAI and Cessna Grand Caravan 208B VT-UDN are actually removed from the Airport Premises.*

6. *Because as per the applicable recent credit policy of the Airport Authority of India, Applicant is also entitled to claim Interest @ 18% p.a., on the amount of the parking charges payable as rent from 20.07.2018 and 15.09.2018, respectively for the two aircrafts namely VT-*

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SAI and VT–UDN, which amounts to Rs 3,05,550/- (Rupees Three Lac Five Thousand Five Hundred Fifty only] and Rs 2,70,256/- [Rupees Two Lac Seventy Thousand Two Hundred Fifty Six Only], respectively, till 28.02.20201 i.e., Applicant is entitled to claim interest for delayed payment totaling to Rs 5,75,806/- [Rupees Five Lac Seventy Five Thousand Eight Hundred Six Only], which includes GST @ 18%. till 28.02.20201.

7. *Because as per the applicable policy, Applicant is also entitled to claim future Interest @ 18% p.a., w.e.f., 01.03.2021 till actual recovery."*

During the course of arguments, counsel for the Respondent failed to show any valid and subsisting Permit enabling them as of right to use the Airport Premises for the purposes of parking their two Aircrafts namely, VT-SAI and VT-UDN. The air operator permit expired on 5.05.2018 and parking permissions granted initially also stood expired on 7.09.2017 and 2.10.2017 respectively. Section 28A(f) defines 'Unauthorized Occupation' as *"in relation to any airport premises, means the occupation by any person of the airport premises without authority for such occupation by any person of the airport premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason*

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whatsoever.". As the permits granted to the Respondent has already expired, and no valid permit for parking facility is existing, clearly Respondents are occupying the airport premises as 'Unauthorised Occupants'.

Respondent has specifically not disputed the claim of the Applicant that its two aircrafts namely, VT-SAI and VT-UDN has been parked continuously and uninterruptedly at the airport premises w.e.f., 19.07.2018 and 14.09.2018, respectively. As such, clearly, Respondent is liable to pay damages for unauthorized occupation of the Airport Premises. Tariff Card policy issued by Airports Economic Regulatory Authority of India [AERA] is the sole policy which determines the tariff for parking charges, besides other charges. A bare perusal of the AERA policy annexed as Annexure 10 goes to show that the Parking Charges mentioned for an Aircraft up 25 MT is Rs 3 per Hour per MT. The said Policy further clarifies that *"Charges shall be calculated on the basis of nearest MT"*. Weight of VT-SAI Aircraft is admittedly 4.11 MT and weight of VT – UDN Aircraft is 3.97 Certificate of Airworthiness marked as Annexure R-4. However, as per applicable policy, weight of both the aircrafts has been correctly treated as 4 MT by the Applicants for the purposes of calculating parking charges being the nearest MT.

During the course of arguments, counsel for respondent did try to state that various amounts have been credited to the Applicant towards Parking

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Charges, however a bare perusal of the documents relied upon by the Respondent goes to show that all the documents related either to a period before 19.07.2018 and 14.09.2018 or related to payments made towards traffic revenues (aeronautical charges). As such, Respondent failed to show that any amount was paid by it to Application towards parking charges for the period post 19.07.2018/14.09.2018, as the case may be.

As such, Applicants are entitled to an amount of Rs 12,60,410/- [Rupees Twelve Lac Sixty Thousand Four Hundred Ten Only] as rent & damages for unauthorized occupation of the airport premises calculated upto 28.02.2021 from the Respondent by parking its two aircrafts namely Cessna Grand Caravan 208B VT-SAI and Cessna Grand Caravan 208B VT-UDN.

Additionally as Respondents continue to occupy the said premises, Applicant are entitled to get mesne profits from the Respondents @ Rs 1,360/- w.e.f. 01.03.2021 till the Airport Premises are actually vacated, as per the applicable parking policy.

Although at a first sight, arguments raised by Respondents are attractive that Respondents are not liable to pay interest in absence of any invoice raised, however upon closer scrutiny of the applicable policies it is apparent that it was the duty of the Respondent to pay the parking charges which are calculated on the basis of transparent policies in this regard.

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Otherwise also, there is no denying the fact that Applicant did issue a demand letter and legal notice calling upon respondents to pay the outstanding parking charges. However, despite receipt of the same, no parking charges were paid. Even the credit policy marked as Annexure 13 clearly stipulates that incase of delay of more than 30 days from the due date, Applicant would become entitled to claim interest @ 18% p.a.,. The said credit policy further clarifies that *"4) Non receipt of bill/invoice will not be a valid reason for non payment of AAI dues."* As such, Respondent is liable to pay interest on the delayed payment @18%p.a., to the Applicant on the amount of the parking charges payable as rent from 20.07.2018 and 15.09.2018, respectively for the two aircrafts namely VT-SAI and VT–UDN, which amounts to Rs 3,05,550/- (Rupees Three Lac Five Thousand Five Hundred Fifty only] and Rs 2,70,256/- [Rupees Two Lac Seventy Thousand Two Hundred Fifty Six Only], respectively, till 28.02.20201 i.e., Applicant is entitled to claim interest for delayed payment totaling to Rs 5,75,806/- [Rupees Five Lac Seventy Five Thousand Eight Hundred Six Only], which includes GST @ 18%. till 28.02.20201.

OPERATIVE PORTION

Accordingly I hereby hold that Respondent is liable to pay and amount of Rs 12,60,410/- [Rupees Twelve Lac Sixty Thousand Four Hundred and Ten Only] towards rent and damages for unauthorizedly occupying the

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airport premises by parking its two aircrafts namely Cessna Grand Caravan 208B VT-SAI and Cessna Grand Caravan 208B VT-UDN continuously w.e.f. 19.07.2018 and 14.09.2018 respectively, along with interest for delayed payment amounting to Rs 5,75,806/- [Rupees Five Lac Seventy Five Thousand Eight Hundred Six Only], which includes GST @ 18%. till 28.02.2021, along with mesne profits of Rs 51,680/- [Rupees Fifty One Thousand Six Hundred and Eighty Only] w.e.f., 1.03.2021 till 07.04.2021, thus totaling to a total amount of Rs 18,87,896/- [Rupees Eighteen Lac Eighty Seven Thousand Eight Hundred and Ninety Six Only] within a period of 07 days from the receipt of this order to the Applicant, failing which Respondent will be liable to pay interest @ 18% p.a., on the said amount of Rs 18,87,896/- [Rupees Eighteen Lac Eighty Seven Thousand Eight Hundred and Ninety Six Only] till actual payment along with mesne profits for unauthorized occupation of the subject premises which will be calculated @ Rs 1360/- [Rupees One Thousand Three Hundred and Sixty Only] per day from 08.04.2021 till the subject premises are actually vacated by Respondent.

Place: Jaipur
Date: 08.04.2021

J.S. Balhara
(Eviction Officer)
Airports Authority of India
Jaipur Airport
Jaipur-302029

EVICTION OFFICER
Airports Authority of India
Jaipur International Airport

Daily Order Sheet

Before Mr. J S Balhara, Eviction Officer, Airports Authority of India, Jaipur

Application
IN
Eviction Case No. 1/2020

In the matter of:

Airports Authority of India, Jaipur..... Applicant

Versus

Supreme Transport Organisation Pvt. Ltd .... Respondent

Date 26.06.2020

That Ld. Counsel Mr. Rishi Kapoor for Petitioner had filed an early hearing Application for preponement of the hearing in lieu of Video conferencing facility being in place and enough time to file reply has already been given to the Respondent.

Both the Counsels heard via video conferencing at 4:30 pm. The Respondent also filed their reply to the Early hearing Application with an advanced copy served to the Petitioner/Applicant.

I have heard both the Counsels and have reserved the order for 29.06.2020.

The Eviction Officer
Airports Authority of India
Jaipur Airport
Jaipur-302029

Date 26.06.2020

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Before Mr. J S Balhara, Eviction Officer, Airports Authority of India, Jaipur

Eviction Case No. 1/2020

In the matter of :

Airports Authority of India, Jaipur..... Applicant

Versus

Supreme Transport Organisation Pvt. Ltd.... Respondent

Date of order reserve: 26.06.2020
Date of pronouncement : 29.06.2020

That on the request of Ld. Counsel Mr. Rishi Kapoor for Petitioner had filed an early hearing Application for preponment of the hearing in lieu of Video conferencing facility being in place and enough time to file reply has already been given to the Respondents. The core ground for early hearing was to curtail the time period given to the Petitioner's Counsel for filing Rejoinder and to list the matter for final arguments, as the Airports Authority of India has been facing loss every day.

The request submitted by the Counsel of Respondent to file reply within 6 weeks from last date of hearing, i.e. 01.06.2020 and the same ends on 13.07.2020.

In lieu of this, I find no point or ground for an early hearing to be advanced to the Petitioner/Applicant that too only for 3 days.

The Application for early hearing of Petitioner/Applicant stands **dismissed**.

However, I would again like to point out to Counsels of both the Parties to strictly adhere the Order dt. 01.06.2020 and follow the time lines given for the pleadings and be prepared for final arguments hearing on the next date, i.e. **20.07.2020**.

The Eviction Officer
Airports Authority of India
Jaipur Airport
Jaipur-302029
Date 29.06.2020

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