



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



S.B. Civil Writ Petition No. 8965/2019

Gas Authority Of India Limited, A Company Incorporated And Existing Under The Companies Act, 1956 And Having Its Registered Office At 16, Bhikaji Came Place, New Delhi-66.

-----Petitioner

Versus

M/s Mahima Real Estate (P) Limited, Having Its Registered Office At 670, Adarsh Nagar, Jaipur.

-----Respondent

For Petitioner(s) : Mr. Sandeep Singh Shekhawat, Adv.
For Respondent(s) :

HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA

Judgment

DATE OF JUDGMENT

11/03/2025

This Civil Writ Petition has been preferred by the petitioner against the order dated 13.03.2019 passed by Additional District Judge No. 14, Jaipur Metropolitan-I (for short the 'executing Court'), in execution application No. 170/2013, whereby the application filed by the petitioner under Section 114 and Order 41 read with Section 151 CPC has been dismissed. The petitioner has also challenged the order dated 12.10.2018 passed by the executing Court, whereby the application filed by the respondent under Order 21 Rule 11 CPC was disposed of and the petitioner was directed to submit the transfer certificate on the next date of hearing.

Learned counsel for the petitioner submits that petitioner-company was the tenant of the respondent on the 3rd floor of Crystal Mall, A-3, Jai Singh Highway, Near Moti Mahal Cinema,



Jaipur, Rajasthan having office Nos. 401, 402, 403 and 404 by virtue of lease agreement dated 21.04.2004. The said lease agreement was for a period of 9 years with a lock-in period of 4 years at the monthly rent of Rs. 1,45,986/-. At the time of taking the premises in dispute on lease, the petitioner deposited an amount of Rs. 8,75,916/- as a part of interest free security (equal to six months rent of the premises). After completion of the lock-in period of 4 years, the petitioner intimated the respondent vide letter dated 10.07.2008 of its intention to vacate the premises in dispute. On 10.10.2008, in terms of notice dated 10.07.2008, the petitioner vacated the premises and handed over the possession of the premises in dispute to the respondent and sought refund which was agreed to be made within 7 days' from the date of execution of the document dated 10.10.2008. Respondent failed to pay the security amount of Rs. 8,75,916/-. Then, the petitioner invoked the arbitration clause provided under the lease agreement and Mr. Prem Kumar was appointed as a sole Arbitrator for the adjudication of the dispute. Sole Arbitrator passed impugned award dated 19.07.2012, in favour of the petitioner and respondent was directed to pay an amount of Rs. 15,97,840/- with interest @ 18% per annum from the date of award till realization of the amount. The petitioner filed an execution application. That was registered on 12.07.2013 and transferred to Additional District and Sessions Judge No. 14, Jaipur Metropolitan-I.

Learned counsel for the petitioner submits that the respondent had filed the objection under Order 21 Rule 11 CPC with regard to maintainability of the present execution application and the Executing Court vide order dated 12.10.2018 directed the



petitioner to file transfer certificate for transferring the execution petition on the next date of hearing. Thereafter, the petitioner filed an application under Section 114 and Order 41 CPC read with Section 151 CPC for reviewing the order dated 12.10.2018 but the Executing Court vide order dated 13.03.2019 dismissed the application filed by the petitioner.

Learned counsel for the petitioner submits that the disputed premises is situated at Jaipur. So, petitioner had a right to file an execution application in Jaipur. So, the orders dated 12.10.2018 and 13.03.2019 passed by the Executing Court be set aside and the Executing Court be directed to decide the execution application filed by the petitioner, as per law.

Learned counsel for the petitioner has relied upon the following judgments passed by Hon'ble Apex Court in the case of (1) **Sundaram Finance Limited Represented by J. Thilak, Senior Manager (Legal) vs. Abdul Samad and Anr.** in civil appeal No. 1650/2018 decided on 15.02.2018; and (2) **Board of Control for Cricket in India Vs. Kochi Cricket Private Limited and Ors.** in civil appeal Nos. 2879-80/2018 with Nos. 2881/2018, 2882/2018, 2883/2018, 2884/2018, 2885-86/2018 2887-89/2018, 2890-91/2018 and 2892/2018 decided on 15.03.2018.

I have considered the arguments advanced by learned counsel for the petitioner and perused the impugned order.

Taking into consideration the facts and circumstances of the case and in my considered opinion, the Executing Court had committed an error in directing to furnish the transfer certificate. When the property was situated in Jaipur, executing court had



jurisdiction to entertain the execution application. So, the orders dated 12.10.2018 and 13.03.2019 passed by the Executing Court deserve to be set aside.

Accordingly, the petition filed by the petitioner is allowed and the orders dated 12.10.2018 and 13.03.2019 passed by the Executing Court are set aside and Executing Court is directed to decide the execution application filed by the petitioner finally on 25.03.2025, as per law.

Both the parties are directed to appear before the executing Court on 25.03.2025.

Pending application(s), if any, stand(s) disposed of.

(NARENDRA SINGH DHADDHA),J

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