
(2024) 09 TDSAT CK 0015

In the Telecom Disputes Settlement And Appellate Tribunal

Case No : Broadcasting Petition No. 338 Of 2018 With Misc Application No. 107 Of 2023

Bharti Telemedia Ltd

APPELLANT

Vs

See Media Services Pvt Ltd Ors

RESPONDENT

Date of Decision : 04-09-2024

Acts Referred:

Code of Civil Procedure Act, 1908 — Section 151, Order 1 Rule 10, Order 7 Rule 11

Citation : (2024) 09 TDSAT CK 0015

Hon'ble Judges : Ram Krishna Gautam, Member

Bench : Single Bench

Advocate : Mritunjay Kumar, Avijit Dikshit

Final Decision : Dismissed

Judgement

1. Case taken up. Learned Counsel for Petitioner, as well as Respondent Nos. 03 and 05 are present.

2. Heard over Miscellaneous Application No. 107 of 2023 moved under Order I Rule 10 read with Section 151, as well as Order VII Rule 11 of Code of Civil Procedure, with a prayer for deletion from the array of parties in the present Petition. Learned Counsel for Respondent Nos. 03 and 05 mentioned that these two Respondents had ceased to be Director of Respondent Company. Accordingly, they are not concerned with the affairs of Respondent No. 1 and their presence is not required for disposal of present Petition. A liberty was granted to file a formal application, Vide Order dated 27.03.2023, and this application is being moved for above purpose.

3. Learned Counsel for Petitioner has vehemently opposed with this contention that Vide Order dated 01.02.2024, this was mentioned by this Tribunal that in a Civil proceeding, the rights and liabilities, being said to have been accrued, before filing of Petition/original suit, is to be adjudged on that date. Hence, the present Applicants were Directors at the time of date of filing of this Petition, as

well as the accrual of cause of action, for which redressal has been claimed. Merely by ceasing from Directorship subsequently, they will not be exonerated from their liability vis-a-vis liability of Respondent Company. That is to be adjudged along with final adjudication.

4. Learned Counsel for Applicant pressed a law laid down by Hon'ble Delhi High Court in ILR (2007) 1 Delhi 1053.

5. Perusal of above law reveals that it is a settled proposition of law that a Director of a Company may not be criminally held liable for the liability of its Company "unless" there is some specific Circumstances. More so, the above law is a settled proposition of law and in present case, it is to be adjudged as to whether there is any circumstances of that category of "unless" in present set up of facts. Hence, this application is of no merit. Accordingly, dismissed.

6. A request is for grant of time for filing reply by these two Respondents. This has been vehemently opposed by Petitioner's Counsel with this contention that they are Respondents since the beginning in the Petition and they were served. Counsels have appeared, but they choose not to file any reply, except the reply of Company Respondent and after the Covid Period and long gap, in between, in utter precaution, a notice through Police Mode was issued and the appearance is according to that notice. Now, the proceeding is at the stage of final hearing and by this request, an attempt is to reopen the proceeding at zero point.

7. Having heard and gone through, it is apparent that the claim is against the Respondent Company. The Directors of Respondent's Company were made as party. But the relief has been claimed against Respondent Company, and the Company had filed its reply. The reply of Directors may not be beyond the reply of its Company, but for giving an opportunity for explaining circumstances bringing present Applicants under category of "unless", an opportunity of filing a reply by these two Applicants is being given for two weeks. Copy of same be got served to other side also. Replication, if any, may be filed.

8. List the matter on 29.10.2024 "for further hearing".