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**(2022) 03 TDSAT CK 0003**

**In the Telecom Disputes Settlement And Appellate Tribunal**

**Case No :** Broadcasting Petition No. 765 Of 2020

Star India Pvt. Ltd.

APPELLANT

Vs

Mahalakshmi Digital Cable And Communication Ltd And Anr

RESPONDENT

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**Date of Decision :** 02-03-2022

**Acts Referred:**

**Citation :** (2022) 03 TDSAT CK 0003

**Hon'ble Judges :** Shiva Kirti Singh, Chairperson; Subodh Kumar Gupta, Member

**Bench :** Division Bench

**Advocate :** Ranjeet Singh Sidhu, U Thakur, Vadivelu Deenadayalan

**Final Decision :** Disposed Of

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## **Judgement**

Heard learned counsel for respondent no. 2/applicant and learned counsel for the petitioner and respondent no. 1, the non-applicants in respect of M.A. No. 81 of 2021 whereby respondent no. 2 has sought deletion from the array of parties as well as for dismissal of the petition qua respondent no. 2. The emphasis in the application is on the prayers made in the petition and contention is that the main prayer of the petitioner claiming certain amount of money is directed only against respondent no. 1. It has also been highlighted that the Interconnect Agreement is only between the petitioner, a broadcaster and respondent no. 1, a DPO.

The above prayer of respondent no. 2 has been strongly opposed by the learned counsel for the non-applicants. Petitioner has referred to paragraphs 11 and 12 of the petition as well as to emails sent by respondent no. 1 to the petitioner disclosing that management and ground operations of respondent no. 1 had been handed over to respondent no. 2 through a written agreement in the month of February, 2020. On that basis the head-end and IRDs as well as SMS and CAS servers, as claimed by respondent no. 1, went under the control of respondent no. 2 as they were let out under the management consultancy agreement. In fact paragraph 12 reveals that respondent no. 1 further informed the petitioner

that respondent no. 2 had defaulted in payments, misused the provisions of the agreement and hence respondent no. 1 wanted the petitioner to immediately stop supply of channel signals on the basis of agreement with respondent no. 1.

Paragraphs 20-24 are covered by the sub heading - Nexus between the two respondents. The main prayers are only directed against respondent no. 1 with whom the petitioner had an agreement but some of the interim prayers such as prayers (c), (g) and (j) are directed against both the respondents.

Although provisions of CPC are not applicable to proceedings before this Tribunal but pleadings in the petition have to read as a whole. These disclose that according to petitioner, there is huge outstanding against respondent no. 1 who alone is liable under the interconnect agreement but petitioner has pleaded that there appears to be a nexus between the two respondents leading to transfer of assets from respondent no. 1 to respondent no. 2 and those assets need to be recovered as assets of respondent no. 1 against which petitioner's claim, if decreed, may be satisfied. Some interim reliefs against respondent no. 2 also have been made because respondent no. 1 himself has disclosed through emails that its assets like SMS, CAS, STBs are under the control of respondent no. 2. Of course, respondent no. 2 has denied these allegations but it cannot be said with certainty that no issue will arise for determination in the petition involving the interest of respondent no. 2 as well. For deciding any issue which can affect the interest of respondent no. 2, it would be proper to have respondent no. 2 available as a respondent so that it may support its stand that it has no nexus with respondent no. 1 and may also rebut the allegations relating to transfer of some of the assets under an agreement of February, 2020. Considering such issues and the principles of natural justice, it is not possible to hold that respondent no. 2 has been made a party in this petition without any good reasons. It is found that it would be a proper party for meeting allegations and issues in respect of liabilities of respondent no. 1 as well as some of the assets which have allegedly gone under control of respondent no. 2

In view of the aforesaid discussions the prayer for deletion is not found fit to be accepted. It is made clear that this order shall not prejudice the interest of any of the parties including respondent no. 2 for the purpose of final adjudication of issues on the basis of pleadings and evidence. The M.A. is disposed of accordingly.

Post the matter before the Court of Registrar on 21.3.2022 for passing necessary orders and directions to make the petition ready for hearing.

Interim order to continue until further orders.