

IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

TUESDAY, THE TENTH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CIVIL REVISION PETITION NO: 3009 OF 2024

Petition filed under Article 227 of Constitution of India, aggrieved by the Order dated 10.06.2024 passed in I.A.No. 549 of 2023 in COS.No. 13 of 2023 on the file of the Court of the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes, at Hyderabad.

Between:

**Novex Communication Private Limited**, Having its registered office at B-301, Remi Biz Court, Plot No.9, Shah Industrial Estate, Off. Veera Desai Road, Andheri (W) Mumbai-400 053 Represented by its Authorised Representative Mr. Vicky Madan

...Petitioner/Defendant

AND

**L & T Metro Rail (Hyderabad) Limited**, Having its registered office at Hyderabad Metro Rail Administrative Building, Uppal Main Road, Nagole, Hyderabad, Represented by its representative Mr.Chandrachud D.Paliwal

...Respondent /Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in C.O.S. No. 13 of 2023 pending on the file of the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes, at Hyderabad.

Counsel for the Petitioner : Mr. A.P. Suresh Ram

Counsel for the Respondent : Mr. Ashok Ram Kumar, representing  
Ms. Sheela Nateshan

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

**CIVIL REVISION PETITION No.3009 of 2024**

**ORDER:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. A.P.Suresh Ram, learned counsel for the petitioner.

Mr. Ashok Ram Kumar, learned counsel representing Ms. Sheela Nateshan, learned counsel for the respondent.

2. With consent of learned counsel for the parties, the matter is heard finally.

3. In this petition under Article 227 of the Constitution of India, the petitioner has assailed the validity of the order dated 10.06.2024 passed by the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad (hereinafter referred to as 'the Commercial Court'), by which the application filed by the petitioner under Order

VII Rule 11(d) of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') namely I.A.No.549 of 2023 seeking rejection of plaint in COS.No.13 of 2023 has been rejected.

4. Facts giving rise to filing of this petition briefly stated are that the respondent had filed a suit seeking the relief of declaration and non-infringement of the copyrights along with a prayer for permanent injunction against the petitioner from interfering with the business of the respondent. During the pendency of the suit, the petitioner filed an application under Order VII Rule 11(d) of CPC for rejection of the plaint on the ground that the petitioner has filed a substantive suit under Section 55 of the Copyright Act, 1957 (hereinafter referred to as 'the Act') before the High Court of Bombay for infringement of the copyright. It was therefore contended that in view of proviso to Section 60 of the Act, the suit is not maintainable. The learned Judge of the Commercial Court has rejected the aforesaid application. Hence, this petition.

5. Learned counsel for the petitioner while inviting the attention of this Court to paragraphs 20 and 21 of the impugned order dated 10.06.2024 passed by the Commercial Court submits that the Court has recorded a finding that it cannot decide whether the suit filed by the respondent is under Section 52 or Section 60 of the Act, which was the issue raised before the Commercial Court. It is submitted that from perusal of the impugned order, it is evident that the Commercial Court has failed to exercise the jurisdiction vested in it by law.

6. On the other hand, learned counsel for the respondent has supported the order passed by the Commercial Court.

7. We have considered the submissions made on both sides and have perused the record.

8. According to the petitioner, the suit filed by the respondent cannot be proceeded in view of proviso to Section 60 of the Act. However, the case of the respondent is that the suit filed by it is under Section 52 of the Act and

not under Section 60 of the Act. The issue with regard to the suit being barred was raised by the petitioner in an application on the strength of proviso to Section 60 of the Act. In order to decide the aforesaid application, the Commercial Court has necessarily to decide whether the suit filed by the respondent is one under Section 52 or Section 60 of the Act. Therefore, it is evident that the Commercial Court has refused to exercise the jurisdiction vested in it by law. The order suffers from jurisdictional infirmity and an error apparent on the face of the record. It is therefore set aside.

9. The Commercial Court is directed to decide the application filed by the petitioner under Order VII Rule 11 CPC afresh after hearing the parties by a speaking order. Needless to state that it is open for the parties to raise all such contentions as may be available to them in law including the one that the respondent has no authority to file a suit under Section 52 of the Act. It is made clear that this Court has not expressed any opinion on merits of the case.

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10. Accordingly, the Civil Revision Petition is disposed of.

Miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

//TRUE COPY//

Sd/- MOHD. ISMAIL  
ASSISTANT REGISTRAR

  
SECTION OFFICER

To,

1. The Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes, at Hyderabad.
2. One CC to Mr. A.P. Suresh Ram, Advocate [OPUC]
3. One CC to Ms. Sheela Nateshan, Advocate [OPUC]
4. Two CD Copies

Njb/gh

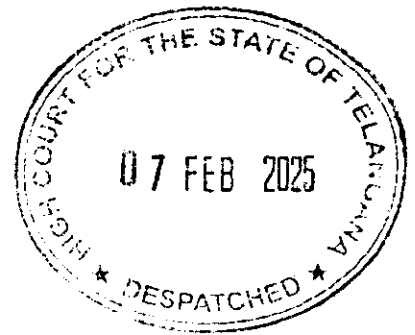


**HIGH COURT**

**DATED:10/12/2024**

**ORDER**

**CRP.No.3009 of 2024**



**DISPOSING OF THE CRP  
WITHOUT COSTS**

*6 copies  
for  
30/11/25*