

Cyient Ltd vs Karnataka State Electronics Development

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Court : Karnataka

Decided On : Dec-20-2024

Judge : Suraj Govindaraj

Appeal No. : WP/28909/2015

Appellant : Cyient Ltd

Respondent : Karnataka State Electronics Development

Judgement :

-1- R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024 BEFORE THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ WRIT PETITION NO. 28909 OF 2015 (GM-RES) BETWEEN CYIENT LTD A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE COMPANIES ACT, 1956 AND HAVING ITS OFFICE AT CYIENT IT PARK, 110A & 110B, PHASE I, ELECTRONIC CITY, BENGALURU-560 100 REPRESENTED BY ITS GENERAL MANAGER DR. RAJARAM KOTA ...PETITIONER (BY SRI. M.V. SUNDARARAMAN., ADVOCATE) AND KARNATAKA STATE ELECTRONICS DEVELOPMENT

Digitally signed by SHWETHA CORPORATION LTD. RAGHAVENDRA
2ND FLOOR, TTMC "A" BLOCK, Location: HIGH COURT OF BMTC,
SHANTINAGAR, K.H. ROAD, KARNATAKA BANGALORE-560 027.
REPRESENTED BY IT MANAGING DIRECTOR RESPONDENT (BY
SRI. NISHANTH A.V., ADVOCATE) THIS WRIT PETITION IS FILED
UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA
PRAYING TO ISSUE A WRIT IN THE

NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER

OR DIRECTION TO QUASH THE LETTER DATED 26.05.2015 BEARING -2- NO.
KSEDC/MD/E-CITY/CYIENT/2015-16 AT ANNEXURE-A ISSUED BY THE
RESPONDENT TO THE PETITIONER AND ETC. THIS WRIT PETITION
COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS
ON 05.12. 2024, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:
CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before this Court seeking for the

following reliefs: a. To issue a writ in the nature of certiorari or any other appropriate writ, order, or direction to quash the letter dated 26.05.2015 bearing No. KSEDC/MD/E- City/Cyient/2015-16 at Annexure-A issued by the Respondent to the petitioner. b. Issue a writ in the nature of Mandamus directing the Respondent to execute a sale deed in favour of the petitioner in respect of the Schedule Property in terms of Lease cum Sale Agreement dated 09.06.2005; c. Pass such other/further order/s as this Honble Court deems fit and proper in the facts and circumstances of the case in the interests of justice and equity.

2. The Petitioner claims to be a Company incorporated under the provisions of the Companies Act 1956, providing various software services. The Petitioner was

originally incorporated as Infotech Enterprises -3-

Private Limited company in the year 1991, subsequently became a Public Limited Company in the year 1995 and consequently, a Certificate of Registration and change of name was issued on 7.9.1995. The name of the Petitioner came to be changed from Infotech Enterprises Ltd. to Cyient Limited on 5.5.2014.

3. The Petitioner being desirous of setting up of a

computer software development project applied for allotment of a site to the Respondent vide application dated 25.5.2002. A Letter of Intent on allotment came to be issued along with a Possession Certificate on 26.11.2004. Subsequently, a Lease-cum-Sale agreement came to be executed on 9.6.2005 for a period of six years. The Petitioner got a plan approved for construction and put up the construction in the year 2007 of 2.40 lakh square feet on the scheduled property. All the payments which have been called upon by the Respondent for payment have been so paid. -4-

4. The Petitioner, on compliance with all its obligations,

vide its letter dated 6.2.2013, 22.5.2013, 6.9.2013, 29.11.2013, 5.12.2013, 2.5.2014, and 5.3.2015 called upon the Respondent to execute necessary sale deed and provided the latest audit report and shareholding pattern. No action had been taken on the said request. After a delay of nearly three years, the Respondent on 16.3.2015 replied to the Petitioner alleging that the Petitioner has violated Clauses 3 (r)(i) and (ii) of the Lease-cum-Sale agreement and alleged that the Petitioner has changed its name without obtaining prior approval and contended that the Lease-cum-Sale agreement would be cancelled by issuing a show-cause notice on 16.03.2015.

5. The Petitioner replied to the same on 19.03.2015,

stating that there is only a change in the name of the Petitioner and there is no change in the constitution of the Petitioner. The Respondent replied vide its letter dated 26.05.2015 that the allotment could -5- continue only if the Petitioner were to make payment of the present allotment rate at the rate of Rs.2,250/- per square feet, within the next four months. It is challenging the said letter dated 26.05.2015 that the Petitioner is before this Court.

6. Sri.Dhyani Chinnappa, learned Senior Counsel

appearing for the Petitioner would submit that there is no violation on part of the Petitioner of any of the provisions. The referenced Clauses 3(r)(i) and 3(r)(ii) are not applicable to the present facts and circumstances. The Petitioner has only undergone a change in the name which is neither prohibited nor can be prevented. The Petitioner was always a Public Limited Company and continues to be a Public Limited Company and as such the shareholding changes if any in a Public Limited Company cannot be held against the Petitioner inasmuch as the change in shareholding is not as regards the promoters, but is as regards the institutional -6-

investors, general public, etc., over which the Petitioner has no control and on that basis, he submits that the petition is required to be allowed.

7. Sri.Nishanth A.V., learned counsel for Respondent

submits that in terms of Clause 3(r)(ii) of the Lease- cum-Sale agreement, there is a specific restriction on the lessee not to change the name/product as mentioned in the application. Admittedly, the Petitioner when the application was filed was known as Infotech Enterprises Limited and now the name has been changed to Cyient Limited and therefore, ex facie, there is a violation of 3(r)(ii) of the Lease- cum-Sale agreement and as such, the Respondent is not bound to execute a sale deed on there being a violation.

8. The Respondent has been liberal in continuing the allotment on payment of the current market value by considering it a fresh allotment and on that basis, -7- submits that no fault could be found with the actions on part of the Respondent.

9. Heard Sri.Dhyan Chinnappa, learned Senior Counsel for the Petitioner and Sri.Nishanth A.V., learned counsel for Respondent and perused papers.

10. The short question that would arise for consideration

is: Whether change of the name of a Public Limited Company, would amount to a breach of the terms of Clause 3(r)(i) or 3(r)(ii) of the Lease-cum- Sale agreement dated 9.6.2005?

11. It is not in dispute that the Petitioner was earlier

known as Infotech Enterprises Limited and it is that limited company which is a party to a Lease-cum- Sale agreement. It is further not in dispute that the said company had made payment of all the due amounts, obtained plan sanctions and put up constructions and is running its business in the premises allotted. -8-

12. The only contention of the Respondent is that the name of the Petitioner has been changed, without the prior approval of the lessor and as such, the lessee has to pay the prevailing rate of the plot.

13. Clauses 3(r)(i) and 3(r)(ii) of Lease-cum-Sale

Agreement are reproduced hereunder for easy reference: 3 (r) (i) The lessee shall not change the constitution/status of its firm/company (proprietary or partnership (registered or un-registered) or private limited company or unlimited company) without the previous written consent of the lessor or any other officer authorised by the lessor and such consent shall be granted by the lessor subject to the condition that the original applicant / partners / promoters/ directors / shareholders should continue to hold a minimum 51% of the interest/shares in the newly constituted firm/company. And in the event of the lessee's death, the person to whom the title shall be transferred as heir or otherwise shall cause notice

thereof to be given to the lessor within three months from such death. 3 (r) (ii) The lessee shall not change the name/product (as mentioned in the application) without the previous written consent of the lessor or any officer authorised by the lessor and such consent shall be granted by the lessor subject to the condition that the lessee has to pay prevailing rate of the plot. -9-

14. Though, in the notice, Clause 3(r)(i) of the Lease-

cum-Sale Agreement was referred to, during the course of the argument, the contention as regards Clause 3(r)(i) has been given up and as such, it would not be required for this Court to go into whether there is any change in the shareholding or not even though a memo along with documents in relation thereto has been filed by the Petitioner to contend that there is no such change in shareholding.

15. Coming to Clause 3(r)(ii) of the Lease-cum-Sale

Agreement, what is stated therein is that the lessee shall not change the name/product without the previous written consent of the lessor or any officer authorized by the lessor and such consent shall be granted by the lessor subject to the condition that the lessee has to pay a prevailing rate of the plot. - 10 -

16. Now, the said clause can be divided into two parts.

Firstly, that consent has to be obtained. Secondly, the consent shall be granted subject to the condition that the lessee pays the prevailing rate of the plot. Thus, for a moment, assuming that the Petitioner had approached the Respondent for change of name, the only manner in which the Respondent claims that the change of name would be permitted is on paying the prevailing rate of the plot. No reason or justification has been made out, as to how a change in the name of the company or even the name of the product would have a bearing on the lease entitling the Respondent seeking for payment of prevailing rate of

the plot.

17. It is not that the Petitioner has not put up the

construction of the software facility. It is not the case of the Respondent that this software is not being developed and the premise is not being used for such purposes, which is the underlying purpose of - 11 - the agreement. A mere change in the name of the company, in my considered opinion, cannot lead to the Respondent seeking for payment of prevailing

rate of the plot. The change in the name could be necessitated on account of various factors, which is a business exigency on part of an allottee of the land. It is one thing to say that on a request being made, the change in name could be permitted. It is another thing to say that a change of name would only be permitted on the condition that the lessee pay the

prevailing rate of the plot. Such a condition is

completely unreasonable. The state and its instrumentalities are required to encourage and facilitate businesses, the petitioner having invested huge amounts of money and put up a construction of 2,40,000 sq feet, which has provided employment to thousands of people, the same would be in the interest of the state that such businesses are encouraged so that more employment as also more business is generated. Instead of doing so the

- 12 - Respondent has sought to impose unreasonable conditions and make unreasonable demands which are deprecated.

18. Respondent being an instrumentality of the State, in

my considered opinion, cannot act in such an unreasonable manner and claim for prevailing rate of the plot by having inserted the said clause unilaterally in a standard form of contract. Thus, even though there is a change in the name of the Petitioner, I am of the considered opinion that there being no grounds made out by the Respondent as to why it would

be entitled for the prevailing rate of the plot and how the change of name has affected the allotment adversely, the demand made by the impugned Annexure-A would be required to be quashed. Hence, I pass the following:

ORDER

i) The Writ Petition is allowed. - 13 -

ii) A certiorari is issued the letter dated 26.05.2015 bearing No.KSEDC/MD/E- City/CYIENT/2015-16 issued by the Respondent at Annexure-A is quashed. iii) A mandamus is issued directing the Respondent to execute a sale deed in favour of the Petitioner in respect of the property scheduled to the Lease-cum-Sale agreement dated 9.6.2005 within 30 days from the date of receipt of a copy of this order.

SD/- (SURAJ GOVINDARAJ) JUDGE PRS List No.: 1 SI No.: 41

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