

Ntpc Vs. Spectrum Power Generation Co. Ltd. and ors.

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SooperKanoon Citation : sooperkanoon.com/686329

Court : Delhi

Decided On : Jul-16-1998

Reported in : 1998VAD(Delhi)328; 74(1998)DLT500

Judge : S.N. Kapoor, J.

Appeal No. : IA 1788/98 in S. No. 1905/96

Appellant : Ntpc

Respondent : Spectrum Power Generation Co. Ltd. and ors.

Advocate for Pet/Ap. : Mr. Sanjeev K. Kapoor, Adv; Mr. Ashwani Kumar, Sr. Adv. and;

Judgement :

S.N. Kapoor, J.

1. In this suit, the NTPC seeks a decree for specific performance against defendants No. 1 to 3 to perform their obligations in the promoters agreement, seeks mandatory injunction to defendant No.1 to issue and deliver 77.7 lakhs equity shares to plaintiff by accepting the plaintiff's contribution for the same and to accept the plaintiff's nominee as the Directors on their Board. IDBI was not made a party to this suit earlier. Certain stand has been taken by defendant No.1 in written statement relating to promoters agreement which is said to have been deviated

due to the terms and conditions imposed by IDBI as pre-condition for disbursement of the loan and financial assistance to the extent of Rs. 306 crores approximately on certain terms and conditions including that there would be a public issue of the equity shares to the defendant to the extent of 34%. The plaintiff tried to procure the appraisal report and other relevant correspondence between them and defendant No.1 by way of notice to counsel for defendant Nos.1.1 Ms. Pallavi Shroff. However, the plaintiff was denied an inspection of the same on the ground that these were confidential documents and were only in possession of IDBI. According to the plaintiff, it is put in a strange situation where its rights are prejudiced by the alleged terms and conditions of the agreement but it has no access to them. This is the only basis on which IDBI has sought to be joined as a party to the suit.

2. Insofar as acquiring any requisite information is concerned, the defendant No.1 cannot withhold any document on the ground that it is a confidential document for they are supposed to have a copy thereof when defendant NO.1 is contending on the basis of that very document in para 32 of the written statement and changing the equity pattern. Non production of such documents may ultimately lead to draw an adverse inference against defendant No.1 on the one hand and the IDBI may also be directed to produce a copy of the appraisal report and other relevant correspondence between the defendant No.1 and IDBI in case of necessity, at the time of recording evidence.

3. I find no force in this application, it is dismissed accordingly.

4. With these observations, the application is disposed of.