

SUPREME COURT OF INDIA

Sikka Star Satellites

Vs.

Star(I) Pvt.Ltd.

C.A.No.4450 of 2008

(R.V.Raveendran and Lokeshwar Singh Panta JJ.)

01.08.2008

ORDER

1. This appeal is filed against the order dated 23.5.2008 passed by the Telecom Disputes and Settlement Appellate Tribunal [for short `the Tribunal'], rejecting Petition No. 325 (C) of 2006 filed by the appellant seeking a direction to the respondent to provide decoders to the appellant and resume signals.

2. The appellant, a proprietary concern of one Shakuntla Sikka, is a registered cable operator. Its business is run by her son and Attorney Holder Dharmendra Sikka alias Tony Sikka. The appellant was receiving signals for its customers from respondent though the decoders supplied by the respondent under an agreement dated 5.10.1999.

3. The said Dharmendra Sikka is a promoter and director of Lucknow Entertainment Network Systems Pvt. Ltd. [for short `LENS'], a franchisee of Siti Cable Network Ltd. [for short `Siti Cable']. The appellant had shifted the said decoders supplied by the respondent to the premises of LENS. The appellant also failed to pay the subscription fee and other fees to respondent in spite of demands. Therefore, the respondent disconnected the signals with effect from 17.4.2002. More than four years later, the appellant filed a petition before the Tribunal seeking restoration of signals. In the said complaint, the appellant alleged that it had no connection with LENS or Siti Cable; that it had shifted the decoders supplied by Respondent to LENS on the request of respondent; that it was regularly paying the dues to LENS; and that it was not therefore due in any amount to the respondent.

4. The respondent filed a reply stating that the signals to appellant were disconnected on 17.4.2002 due to non-payment of the dues (subscription fee and other dues); that the decoders supplied by it for the exclusive use of appellant had been illegally transferred by the appellant to LENS and shifted to the premises of LENS; that Dharmendra Sikka who was in charge of the business of both appellant and LENS, was indulging in piracy by illegally transmitting signals of respondent; that respondent had lodged an FIR dated 13.12.2006 and an anti-piracy raid was conducted on the same day on the premises of the appellant; that it had also initiated criminal proceedings against the appellant and Dharmendra Sikka for

offences under section 138 of the Negotiable Instruments Act; and that the appellant had suppressed all these relevant facts in the petition dated 21.12.2006.

Respondent contended that the appellant was not therefore entitled to receive signals from it.

5. The Tribunal by its impugned order dated 23.5.2008 dismissed the petition. It has recorded the following findings:

“(a) Though Smt. Shakuntla Sikka, a 75 years old handicapped widow, was stated to be the proprietor of the appellant, its business was actually managed by her son Dharmendra Sikka.

(b) The said Dharmender Sikka floated a Company (LENS) and without the consent of the respondent, shifted and transferred the decoders given by respondent to the appellant, to the said LENS (a franchisee of Siti Cable), controlled by Dharmendra Sikka.

(c) The appellant falsely alleged that it had transferred respondent's decoders to LENS on the instructions of respondent. The same were passed on surreptitiously to LENS without the consent of the respondent.

(d) The respondent disconnected the signals to appellant as large amounts due to it had not been paid. In fact in a letter dated 21.2.2002 written by Dharmendra Sikka as Director to LENS, he had admitted that Rs. 17.44 lakhs were due to respondent on account of the dues of appellant and LENS would pay it.

(e) Four cheques for Rs. 4 lakhs each issued towards the dues were dishonoured and large amounts were due by appellant to respondent.

The Tribunal held that the respondent was justified in disconnecting the supply of signals to appellant; and as the appellant had suppressed material facts and approached the Tribunal with unclean hands practicing deception, the appellant was not entitled to any relief. The said order is challenged in this appeal.”

6. Dharmendra Sikka appeared in person as attorney holder of the appellant. He submitted that the appellant had nothing to do with LENS and that LENS was controlled by Siti Cable and appellant could not be punished for any alleged breach or violation by LENS. He however was not able to deny that he was the founder Director of LENS. Nor was he able to deny the fact that decoders entrusted by the respondent to the appellant had been given to LENS and they were in possession of LENS. He could not point out anything in writing to show that respondent had consented to or requested the appellant to transfer the decoders to LENS. He was also not in a position to point out any material to show that appellant had cleared the dues to respondent. In the circumstances, we find no reason to interfere with the order of the Tribunal. The appeal is therefore dismissed as having no merit.