

ITEM NO.2

COURT NO.8

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No.9019/2019

(Arising out of impugned final judgment and order dated 01-04-2019 in WA No. 1594/2018 passed by the High Court for the State of Telangana at Hyderabad)

UNITECH LIMIED & ORS.

Petitioner(s)

VERSUS

TELANGANA STATE INDUSTRIAL INFRASTRUCTURE CORPORATION (TSIIC) & ANR.

Respondent(s)

WITH S.L.P.(C) No.10135/2019 (XII-A)
S.L.P.(C) No.17529/2019 (XII-A)

(With appln.(s) for exemption from filing c/c of the impugned judgment)

Date : 05-03-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s)

Mr. Tushar Mehta, SG
Ms. Anubha Agrawal, AOR

Mr. Abhimanyu Bhandari, Adv.
Ms. Neeha Nagpal, Adv.
Mr. Anuroop Chakravarti, Adv.
Mr. Abhishek Thakral, Adv.
Ms. Ranjeeta Rohatgi, AOR

Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. S. Udaya Kumar Sagar, AOR
Ms. Swati Bhardwaj, Adv.

For Respondent(s) Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. S. Udaya Kumar Sagar, AOR
Ms. Swati Bhardwaj, Adv.

Mr. Tushar Mehta, SG
Ms. Anubha Agrawal, AOR

Mr. E. C. Agrawala, AOR

UPON hearing the counsel the Court made the following
O R D E R

Three Special Leave Petitions have been filed before this Court against the impugned judgment and order of the Division Bench of the High Court for the State of Telangana dated 1 April 2019 in Writ Appeal No 1594 of 2018.

The learned Single Judge of the High Court by a judgment dated 23 October 2018 directed the Telangana State Industrial Infrastructure Corporation¹ to provide restitution of the amounts claimed by Unitech Limited with interest at the SBI Prime Lending rate in terms of Clause 14.3.1 read with Clause 1.1.(1) of the Development Agreement. The learned Single Judge noted that Unitech Limited had tendered a computation of the amount due, interest being compounded annually. Moreover, the TSIIC had neither disputed the deposit of the amount or the interest at the SBI Prime Lending Rate.

The Division Bench has confined the liability of the TSIIC to pay interest from 14 October 2015 when the judgment was delivered by this Court in the *State of Andhra Pradesh v. Pratap Karan*² holding that the Andhra Pradesh Industrial Infrastructure Corporation³ had no title to the land. It was

1 "TSIIC"
2 (2016) 2 SCC 82
3 "APIIC"

on this basis that the money which had been deposited by Unitech Limited was held to be liable to be refunded, together with interest, by the Single Judge.

Mr C S Vaidyanathan, learned senior counsel appearing on behalf of TSIIC contests the liability of TSIIC to meet the liability for the outstanding, if any, that may be due from APIIC. In this context, reliance has been placed on Section 68 of the Andhra Pradesh Reorganisation Act 2014 which provides as follows:

"68. Provisions for various companies and corporations:- (1) The companies and corporations specified in the Ninth Schedule constituted for the existing State of Andhra Pradesh shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day, subject to the provisions of this section.

(2) The assets, rights and liabilities of the companies and corporations referred to in sub-section (1) shall be apportioned between the successor States in the manner provided in section 53."

Section 71 contains the following provision:

"71. Certain provisions for companies:- Notwithstanding anything in this Part, the Central Government may, for each of the companies specified in the Ninth Schedule to this Act, issue directions-

- (a) regarding the division of the interests and shares of the existing State of Andhra Pradesh in the Company between the successor States;*
- (b) requiring the reconstitution of the Board of Directors of the Company so as to give adequate representation to the successor States."*

APIIC has been listed at Entry 17 of the Ninth Schedule to the Act.

The submission of Mr C S Vaidyanathan is that in the absence of a division by the Central Government between the liability of APIIC and TSIIC, as contemplated in Section 71 of the Act, TSIIC cannot be held liable for the entire amount merely on the ground that the lands fall within the jurisdiction of the successor State of Telangana. The submission is that despite the objections which were raised on behalf of the TSIIC, APIIC was not impleaded as a party to the proceedings before the High Court.

Mr Tushar Mehta, learned Solicitor General of India has appeared both in support of the Special Leave Petition which has been filed on behalf of Unitech Limited (which is now under the management of a Board of Directors constituted by the Central Government) and to oppose the Special Leave Petitions, which have been filed by TSIIC.

At this stage, we direct that APIIC be impleaded as a party in all the Special Leave Petitions. The amendment be carried out within a period of one week from today.

Notice shall be issued to APIIC, the newly impleaded party, returnable in four weeks.

Mr. C.S. Vaidyanathan, learned senior counsel stated that without prejudice to the rights and contentions of TSIIC in these proceedings, it will deposit forty-two per cent of the principal sum of Rs 165 crores before this Court, which works out to Rs 69.30 crores. This amount shall be deposited within a period of four weeks from today. In addition, we are of the view that since there is effectively a money decree, TSIIC should also deposit interest computed on the aforesaid amount of Rs 69.30 crores, computed with reference to 14

October 2015 as the commencement date, at the rate and in the manner which has been directed in the order of the learned Single Judge of the High Court, by 30 April 2020. All amounts which are deposited by TSIIC shall be subject to the result of the present proceedings and would be without prejudice to its rights and contentions.

The amount, upon deposit, shall be invested in a fixed deposit of a nationalized bank by the Registry of this Court. The newly constituted Board of Directors of Unitech Limited would be at liberty to make an application for withdrawal of the aforesaid amount.

List the Special Leave Petitions on 22 April 2020.

(Chetan Kumar)
A.R. - cum - P.S.

(Saroj Kumari Gaur)
Court Master