

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 3227/2019

Worldcall Telecom Limited

Versus

Capital Development Authority through its Chairman etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(02)	26.09.2019	Mr. Abdul Bari Rashid, Advocate for petitioner. Mr. Amir Latif Gill, Advocate for respondent No.1/CDA. Mirza Ali Khalid, Inspector Telecom Unit.

Through instant writ petition, petitioner company/Worldcall Telecom Limited has assailed the action of respondents, whereby its office has been sealed.

2. Learned counsel for petitioner contends that petitioner company and respondent/CDA entered into a joint venture agreement on 12.03.2007 for installation of optic fiber cable duct in Islamabad; that the relationship between the parties is of a civil nature and respondents are not permissible under the law to seal the subject premises; that respondents and petitioner company has a commercial dispute and in case of recovery of alleged arrears of Rs.143.52/Million, respondent No.1/CDA is not authorized to recover the same in terms of arrears of land revenue rather they can invoke the arbitration clause of the agreement under the law; that under no stretch of imagination, respondents can seal the premises and act as party rather than in authoritative capacity.

3. Conversely, the respondents have put appearance through their representatives, whereby, Mirza Ali Khalid, Inspector Telecom Unit, DMA states that petitioner company is defaulter of Rs.143.52/million and in this regard different notices have been issued for recovery of share of CDA, under the terms of the contract, which has been calculated through a special audit conducted in 2014. He further states that despite issuance of several notices, the petitioner company has not paid amount calculated at that time which is equal to Rs. 143.52/Million, therefore, the matter was referred to CDA Magistrate and on the orders of Magistrate, process of sealing of premises, being used by petitioner company/ Worldcall Telecom Limited was initiated in terms of Land Revenue Act, 1967. He further states that petitioner company has not adopted process of arbitration and the process of termination of the contract is pending before the authorities of MCI under the Local Government Act, 2015, however, no final decision has been taken by the competent authorities as to whether the contract between the parties has to be terminated or otherwise.

4. When confronted, learned counsel for respondent No.1/CDA as well as representative of MCI to justify the action of the concerned Magistrate, who has sealed official premises of the petitioner company/ Worldcall Telecom Limited, they failed to satisfy this Court on any legal principle.

5. Keeping in view the above background, the action of sealing of premises of petitioner company/ Worldcall Telecom Limited Sector G-9/3, Islamabad is hereby ***set-aside*** and parties are directed to invoke the mechanism referred under the provisions of the contract for resolution of their dispute in terms of Clause 21 "*Settlement of disputes*"

6. At this stage, this Court observes that respondent side has raised the claim of Rs.143.52/million, therefore, petitioner company/ Worldcall Telecom Limited is directed to furnish Corporate Bonds amounting to Rs. 143.52/million in favour of MCI, against their claim, however, the same will be utilized subject to any decision in terms of arbitration proceedings.

7. Respondent No.2/MCI is directed to de-seal the said premises within 3 hours and submit compliance report before this Court ***today***.

8. In view of above terms, instant writ petition stands ***disposed of***.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khurram