



ARBITRATION COURT OF  
THE SARATOV REGION  
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In the name of the Russian  
Federation  
DECISION

Saratov city  
27 August 2019

The operative part of the decision was announced on August 27, 2019 The full text of the decision was issued on August 27, 2019

case No. A57-11290 / 2019

The Arbitration Court of the Saratov Region, composed of Judge Viklenko T.I., while keeping the minutes of the court session by the secretary of the court session, Omarova B.T., having considered the case on applications in the court session of the arbitration court of first instance limited liability company "Company" ALS and TEK ",  
o recognition and cancellation of the order of the bailiff-executor of the Kirovsky district department of bailiffs of the city of Saratov of the Office of the Federal Service of Bailiffs for the Saratov Region Tumaeva Ksenia Sergeevna dated 03/15/2019 on enforcement proceedings No. 74142/18/64042-IP (previous 29540/18 / 64042-IP) on the refusal to satisfy the application of LLC "Company" ALS and TEK "dated 11.03.2019 on the end of enforcement proceedings,  
o invalidation and cancellation of the order of the bailiff-executor of the Kirovsky district department of bailiffs of the city of Saratov of the Office of the Federal Service of Bailiffs in the Saratov Region Shvab Margarita Arturovna dated 04/18/2019 on enforcement proceedings No. 74142/18/64042-IP (previous 29540/18 / 64042-IP) on the refusal to satisfy the application of LLC "Company" ALS and TEK "dated 04/11/2019 about the end of enforcement proceedings,  
interested persons:  
Kirovskiy ROSP of the city of Saratov UFSSP of Russia in the Saratov region,  
bailiff of the Kirov Regional Department of the Federal Security Service of the city of Saratov of the Federal Bailiff Service Directorate of Russia for the Saratov Region Shvab M.A.,  
bailiff of the Kirovsky district department of bailiffs of the city of Saratov of the Office of the Federal Service of Bailiffs in the Saratov Region Tumaeva K.S.  
Federal Bailiff Service Directorate of Russia for the Saratov Region, LLC DSPS,  
JSC Firm "Smur", with the participation of:  
from the applicant - Demidov AND.A. by power of attorney dated 21.12.2017, V.N. Vekozin by power of attorney dated 01.12.2017,  
from LLC "DSPS" - Demidov I.A. by proxy,  
from JSC "Firm" Smur - Litvinova N.N. by power of attorney dated 05/17/2018,  
bailiff-executor of the Kirov Regional Department of the Federal Security Service of the city of Saratov of the Federal Bailiff Service of Russia for the Saratov Region Shvab M.A., second certificate,

Kirovskiy ROSP of the city of Saratov UFSSP of Russia in the Saratov region - Shvab M.A., by proxy, other persons did not appear, were notified,

found:

The limited liability company ALS and TEK applied to the Arbitration Court of the Saratov Region with the above statements in the framework of cases No. A57- 11290/2019 and No. A57-11287 / 2019.

The aforementioned cases were combined into one proceeding, and the case was assigned a single number A57-11290 / 2019.

The applicant's representatives supported the stated claims in full.

Representatives of the bailiff service, JSC "Firm" Smur "objected to the satisfaction of the stated requirements.

Other persons participating in the case did not appear at the court session, and were duly notified of the time and place of the court session.

By virtue of Part 1 of Article 123 of the Arbitration Procedural Code of the Russian Federation, the persons participating in the case and other participants in the arbitration process are considered duly notified if by the beginning of the court session, the commission of a separate procedural action, the arbitration court has information that the addressee has received a copy of the ruling on the acceptance of the statement of claim or an application for proceedings and initiation of proceedings on a case sent to him in the manner prescribed by this Code, or other evidence of the receipt by the persons participating in the case of information about the commenced trial.

Information about the place and time of the court session is posted on the official website of the Arbitration Court of the Saratov Region, which is confirmed by the report on the publication of judicial acts on the website.

The participants in the process were duly notified of the place and time of the court session, in accordance with the requirements of Article 123 of the Arbitration Procedure Code of the Russian Federation.

In accordance with Article 163 of the Arbitration Procedure Code of the Russian Federation, a break was announced in the court session during the day until August 27, 2019 at 17:00. 00 minutes, after which the consideration of the case was continued.

The court considers the case according to the rules of Chapter 24 of the Arbitration Procedure Code of the Russian Federation.

As follows from the materials of the case, entered into legal force by the decision of the Twelfth Arbitration Court of Appeal dated 12/13/2017. in case No. A57-233 / 2017, the decision of the Arbitration Court of the Saratov Region of August 31, 2017 in case No. A57-233/2017 was canceled.

The court ordered JSC "firm" SMUR ", Voronezh to return in favor of LLC" Company "ALS and TEK" four optical fibers in the fiber-optic communication line "Saratov-Ozinki" in part of the second stage - optical fibers in the section from Ershov to Saratov: from the optical crossbar in a container on the territory of the RTRS "Saratov ORTPTS" address Saratov region, Ershov, Meliorativnaya str., 32A to the main distribution coupling MRM28 near the settlement of Pushkino, Sovetsky district, Saratov region, from the distribution main coupling MRM28 near the settlement Pushkino, Sovetsky district, Saratov region. to an optical crossbar in a container on the territory of the Open Joint Stock Company "Urbahskiy kombinat khleboproduktov" at the address Saratov region, Sovetskiy district, Pushkino, Zavodskaya str., 1a, from the main distribution coupling MRM28 near Pushkino, Sovetsky district, Saratov region. to optical junction "VOSTOK" LLC

"Company" ALS and TEK ", Saratov, B. Kazachya str., 6, from optical crossover" VOSTOK LLC

"Company" ALS and TEK ", Saratov, B. Kazachya st., 6 to optical crossover "ALS and TEK" on the territory of the Open Joint Stock Company "Integral" at the address Saratov, Chernyshevskogo st., 153, actually received for temporary use by the Closed Joint Stock Company "Firm" SMUR ", Voronezh under the act of acceptance and transfer of property in temporary use from 10.10.2012 in accordance with the terms of the contract No. 3 / 12-12 purchase and sale of optical fibers and a share in the right of common share ownership in a fiber-optic communication line in the Voronezh and Saratov regions, concluded

on 04.09.2012 between the ALS and TEK Company Limited Liability Company and the Closed Joint Stock Company "Firm SMUR".

On the basis of a writ of execution issued by the Arbitration Court of the Saratov Region on the basis of the resolution of the Twelfth Arbitration Court of Appeal dated December 33, 2017. in case No. A57-233 / 2017, bailiff of the Kirov Regional Department of the Federal Security Service of the city of Saratov, UFSSP for the Saratov Region Tumaeva K.S. 05/30/2018 enforcement proceedings No. 29540/18/64042-IP were initiated.

As follows from the statement, LLC "Company" ALS and TEK ", as a claimant, received the property according to the writ of execution and 07/19/2018. the bailiff-executor of the Kirov Regional Department of the Federal Bailiff Service of the city of Saratov of the Federal Bailiff Service for the Saratov Region issued a resolution on the termination of enforcement proceedings No. in the executive document.

LLC "Company" ALS and TEK "confirms that the resolution of the Twelfth Arbitration Court of Appeal dated 13.12.2017. in case No. A57-233 / 2017, on the basis of which the writ of execution was issued, it was executed - the property was received by the claimant, which was the basis for the end of the enforcement proceedings

No. 29540/18/64042-IP in connection with the actual fulfillment of the requirements contained in the executive document.

12.09.2018 between LLC "Company" ALS and TEK "and LLC" DSPS "entered into a contract of sale and purchase of property No.ALS-DSPS / OV-12092018, according to which LLC" Company "ALS and TEK" transferred into ownership of LLC "DSPS" obtained under a judicial act (resolution of the Twelfth Arbitration Court of Appeal dated 13.12.2017 in the case No. A57-233 / 2017) property.

20.11.2018 Basyrova A.E., senior bailiff of the Kirov Regional Department of the Department of Social Protection of the city of Saratov a resolution was issued to cancel the resolution of 07/19/2018. on the end of enforcement proceedings No. 29540/18/64042-IP, enforcement proceedings were resumed with the assignment of registration number No. 74142/18/64042-IP to the enforcement proceedings.

10.12.2018 the bailiff-executor of the Kirovskiy ROSP of Saratov, the UFSSP in the Saratov region, repeated enforcement actions with the involvement of specialists within the framework of enforcement proceedings, during which it was established that the property subject to recovery was used by DSPS LLC.

01/25/2019 the bailiff-executor of the Kirovskiy ROSP of Saratov, the UFSSP in the Saratov region, issued a resolution to conduct an expert study, the conduct of which was entrusted to the specialists of the Regional Expertise Center LLC.

According to the expert opinion of the specialists of Regional Expertise Center LLC

No. 5052 of 02/05/2019: Execute the decision of the Arbitration Court of the Saratov Region of 12/29/2017 in case A57-233 / 2017 by transferring optical fibers in favor of LLC

"Company" ALS and TEK ", Saratov, st. B.Kazachya, 8D from optical distribution frame

"VOSTOK" YOOO "Company" ALS and TEK ", Saratov, st. B. Kazachya, 6 to the optical crossover of LLC "Company" ALS and TEK "on the territory of OJSC" Integral "at the address: Saratov, st. Chernyshevsky, 153, actually received for temporary use by CJSC firm

"Smur" Voronezh under the act of acceptance and transfer of property for temporary use dated 10.10.2012 is currently impossible, since this court decision was executed, the property was transferred on 22.06.2018 to LLC "Company" ALS and TEK "And then sold to a third party.

In this case, the identification of fibers is possible in several ways, described in the research section.

Experts believe that the optical fibers indicated in the court decision in the case A57-233 / 2017 and the optical fibers examined by the experts are the same optical fibers, since the numbering and color of the fibers, the starting and ending points of the location, intermediate points (couplings), the length of the indicated in the court decision, in the act of acceptance and transfer of property for temporary use dated 10.10.2012. and the investigated optical fibers are completely identical within the measurement error.

Experts believe that the investigated optical fibers are optical fibers actually obtained for temporary use by JSC SMUR under the act of 10.10.2012, since the initial and final points of location, intermediate points (couplings), the length specified in the act of 10.10 .2012 and the studied optical

fibers are completely identical.

On March 11, 2019, LLC "Company" ALS and TEK applied to the Federal Bailiff Service of the Russian Federation for the Saratov Region with a statement about the end of the enforcement proceedings in connection with the actual fulfillment of the requirements contained in the executive document.

By the decree of the bailiff-executor of the Kirov Regional Department of Public Administration of the City of Saratov, the Federal Bailiff Service of the Russian Federation for the Saratov Region, Tumaeva K. from 03/15/2019 Refused to satisfy the application of LLC "Company" ALS and TEK "on the end of enforcement proceedings No. 29540/18/64042-IP (new No. 74142/18/64042-IP) received on 11.03.2019.

In addition, by the decree of the bailiff-executor of the Kirov ROSP of Saratov, the Federal Bailiff Service of the Russian Federation for the Saratov Region Shvab M.A. from 18.04.2019 the application of LLC "Company" ALS and TEK "about the end of enforcement proceedings No. 29540/18/64042-IP (new No. 74142/18/64042-IP) was rejected at the request of LLC

"Company" ALS and TEK ", received on 11.04.2019. (input No. 21766/19).

Considering that the orders of the bailiffs-executors of the Kirov Regional Department of the Federal Bailiff Service of the city of Saratov of the Federal Bailiff Service of the Russian Federation for the Saratov Region dated 03/15/2019 and 04/18/2019 on the refusal to satisfy the applications of LLC Company ALS and TEK about the end of enforcement proceedings under the new number No. 74142/18 / 64042-IP are illegal, unfounded, the applicant appealed to the court with these requirements.

In support of the stated requirements, LLC "Company" ALS and TEK "indicates that the contested decisions are illegal, unfounded and violate the rights and legitimate interests of LLC" DSPS ", LLC" MMTS "and LLC" Company "ALS and TEK" in the field of business and other economic activities, since they establish the fact of non-execution of the executed enforcement proceedings, require additional costs for the execution and the commission of other procedural actions, in particular, they force the other side of the enforcement proceedings, which took execution (LLC "Company

"ALS and TEK"), to take actions aimed at judicial protection, on judicial appeal of the above decisions and actions of bailiffs-executors, which leads to financial costs for representatives (these court cases, as well as No. A57-28371\_2018, No. A57- 28364/2018, A57-16161 / 2018, A57-233 / 2017, A57-12788 / 2018, A57- 14818/2018, A57-29166 / 2018).

Having studied the positions of the parties, having examined the evidence presented, the court comes to the following conclusion.

By virtue of part 1 of article 197, chapter 24 of the Arbitration Procedure Code of the Russian Federation, cases on challenging decisions and actions (inaction) of bailiffs-executors are considered by an arbitration court according to the general rules of claim proceedings, with the specifics established by chapter 24 of the Code.

Article 329 of the Arbitration Procedure Code of the Russian Federation provides that the decisions of the chief bailiff of the Russian Federation, the chief bailiff of the constituent entity of the Russian Federation, the senior bailiff, their deputies, the bailiff-executor, their actions (inaction) may be challenged in the arbitration court in cases, provided for by the named Code and other federal laws, according to the rules established by Ch. 24 of this Code.

The specificity of this category of cases lies in the fact that only the bailiff himself, as an official of the Federal Bailiff Service of Russia, can be the proper defendant for the stated requirements for declaring illegal decisions, actions (inaction) of the bailiff-executor.

This legal position is enshrined in clause 5 of the Information Letter of the Presidium of the Supreme Arbitration Court of the Russian Federation dated June 21, 2004 No. 77 "Review of the practice of considering cases related to the enforcement of judicial acts of arbitration courts by bailiffs."

According to Part 1 of Art. 198 of the Arbitration Procedural Code of the Russian Federation, citizens, organizations and other persons have the right to apply to the arbitration court with an application for invalidating non-normative legal acts, illegal decisions and actions of state bodies, officials, if they believe that the contested normative act, decision and action do not comply with the law or other normative legal act and violate their rights and legitimate interests in the field of

entrepreneurial and other economic activities, impose on them any obligations, create other obstacles to the implementation of entrepreneurial and other economic activities.

From the meaning of the above norm, it follows that for the recognition of a non-normative act as invalid or actions (inaction) unlawful, two conditions must be present simultaneously: their inconsistency with the law or other legal act and violation of the applicant's rights and interests protected by law.

When considering cases on challenging the actions of officials, the arbitration court establishes the compliance of the named actions (inaction) with the law or other regulatory legal act, the presence of the powers of the person who committed the contested actions, and whether the contested actions violate the rights and legitimate interests of the applicant in the field of entrepreneurial or other economic activity (part 4 of article 200 of the Arbitration Procedure Code of the Russian Federation).

By virtue of paragraph 1 of Art. 12 of the Federal Law N 118-FZ of July 21, 1997 "On Bailiffs" (hereinafter - the Law on Bailiffs) in the process of compulsory execution of judicial acts and acts of other bodies provided for by the Federal Law on Enforcement Proceedings, the bailiff takes measures for the timely, complete and correct execution of executive documents.

Assessing the legality of the contested decisions, the court proceeds from the following.

According to Part 1 of Art. 329 of the Arbitration Procedure Code of the Russian Federation, decisions and actions of the bailiff-executor may be challenged in an arbitration court in cases provided for by the Arbitration Procedure Code of the Russian Federation and other Federal Law, in accordance with the rules established by Chapter 24 of the Arbitration Procedure Code of the Russian Federation.

By virtue of the provisions of paragraph 1 of Art. 12 of the Federal Law of 21.07.1997 N 118-FZ "On bailiffs" the bailiff-executor in the process of compulsory execution of judicial acts and acts of other bodies provided for by the Law on Enforcement Proceedings, takes measures for the timely, complete and correct execution of executive documents, and also considers statements by the parties regarding

enforcement proceedings and their petitions, makes the appropriate decisions, explaining the terms and procedure for their appeal.

Bailiff in accordance with Art. 13 of the Federal Law of 21.07.1997 N 118-FZ "On bailiffs" is obliged to use the rights granted to him in accordance with the law and not to allow infringement of the rights and legitimate interests of citizens in his activities.

Clause 1 of Part 1 of Art. 47 of the Federal Law of 02.10.2007 N 229-FZ "On Enforcement Proceedings" established that the enforcement proceedings are terminated by the bailiff-executor in the event of actual fulfillment of the requirements contained in the enforcement document.

In accordance with paragraph 37 of the resolution of the Plenum of the Supreme Court of the Russian Federation of 11/17/2015 N

50 "On the Application of Legislation by Courts when Considering Certain Issues Arising in the Course of Enforcement Proceedings" if the enforcement proceedings were terminated on the basis of clause 1 of part 1 of Article 47 of the Law on Enforcement Proceedings in connection with the actual execution of the requirements contained in the enforcement document (including the requirements of a periodic nature), however, subsequently, during the period of submission of a writ of execution for execution, the debtor ceased to perform actions, fulfill requirements of a periodic nature, or violated the prohibition on committing actions in respect of which a writ of execution, a senior bailiff or his deputy (on his own initiative or the claim of the claimant) has the right, by virtue of part 9 of Article 47 of the said Law, to cancel the decision on the end of the enforcement proceedings, indicating the need to re-perform the enforcement actions and the application of enforcement measures.

According to Article 329 of the Arbitration Procedure Code of the Russian Federation, decisions of the bailiff-executor, his actions (inaction) can be challenged in an arbitration court in cases provided for by the named Code and other federal laws, according to the rules established by Chapter 24 of this Code.

The basis for invalidating a resolution, illegal actions (inaction) of a bailiff-executor is the presence of two conditions at the same time: their inconsistency with the law or other regulatory legal act and violation of the rights and legitimate interests of the person who applied to the court with the

corresponding claim in the field of business and other economic activities (Articles 198, 200 and 201 of the Code of Administrative Offenses of the Russian Federation, paragraph 6 of the Resolution of the Plenum of the Supreme Court of the Russian Federation and the Plenum of the Supreme Arbitration Court of the Russian Federation dated 01.07.1996 No. 6/8 "On some issues related to the application of part one of the Civil Code of the Russian Federation") ...

In accordance with Article 2 of the Law on Enforcement Proceedings, the tasks of enforcement proceedings are the correct and timely execution of judicial acts, acts of other bodies and officials, and in cases stipulated by the legislation of the Russian Federation, the execution of other documents in order to protect the violated rights, freedoms and legitimate interests of citizens and organizations ...

Articles 12, 13 of the Federal Law of July 21, 1997 No. 118-FZ "On Bailiffs" (hereinafter referred to as the Law on Bailiffs) established that in the process of compulsory execution of judicial acts and acts of other bodies provided for by the federal law on enforcement proceedings, the bailiff - the executor takes measures for the timely, complete and correct execution of the executive documents.

The court found that at the moment the disputed property received by the claimant - LLC "Company" ALS and TEK "under the act of implementation of enforcement actions dated 06/22/2018, is owned by LLC" DSPS "and is used by it for its intended purpose, which is confirmed by the entered into force by the decision of the Arbitration Court of the Saratov Region in case No. A57-28371 / 2018 dated 25.01.2019, from which it follows that the decision of the senior bailiff of the Kirov Regional Department of the Russian Specialist Service of Saratov Basyrova A.E. of 20.11.2018 on the cancellation of the decree of 19.07.2018 on the end of enforcement proceedings No. 229540/18/64042-IP does not violate the rights of LLC Company ALS and TEK in the field of entrepreneurial and other economic activities, since 12.09.2018 between LLC Directorate communication enterprises under construction "and LLC" Company "ALS and TEK", an agreement No. ALS-DSPS / OV-12092018 was concluded for the purchase and sale of property (4 optical fibers in a fiber-optic communication line on the "Saratov-Ershov" section in FOCL

"Saratov-Ozinki"), under the terms of which and in accordance with the act of acceptance and transfer of 12.09.2018 LLC "Company" ALS and TEK "transferred into the ownership of LLC" Directorate of communications enterprises under construction "awarded and received under the decree of the Twelfth Arbitration Court of Appeal dated 13.12.2017 in the case

No. A57- 233/2017 property (4 optical fibers in a fiber-optic communication line at the SalatovErshov section of the Salatov-Ozinki fiber-optic link).

The ruling of the Arbitration Court of the Volga Region dated 20.03.2019 in case No. A57-233 / 2017 also concludes that the property awarded by the ruling of the Twelfth Arbitration Court of Appeal dated 13.12.2017 in case No. A57-233 / 2017 (4 optical fibers in fiber -optical communication line on the Saratov-Ershov section in the Saratov-Ozinki fiber-optic communication line) ALS and TEK Company LLC was alienated in favor of a third party - LLC Directorate of Communications Enterprises under Construction under a sale and purchase agreement dated 12.09.2018 No. ALSDSPS / OV-12092018. These circumstances also refute the debtor's argument that the ruling of the Twelfth Arbitration Court of Appeal dated 12/13/2017 in case No. A57-233 / 2017 was not actually executed.

In violation of Article 65 of the Arbitration Procedure Code of the Russian Federation, the debtor does not provide any evidence that the disputed property is currently with him, despite the fact that the acts of enforcement actions in May-June 2018 indicate the receipt of the awarded property by the claimant, and the above-mentioned judicial acts confirm the fact that at the moment the disputed property is owned by DSPS LLC and is used by it for its intended purpose.

In support of its objections, SMUR JSC declares that decision No. A57-233 / 2017 has not actually been executed, since part of the optical fibers, in particular from the VOSTOK optical cross-country, LLC ALS and TEK Company, Saratov , st. B. Kazachya, 6, to the optical crossover of LLC "Company" ALS and TEK "on the territory of JSC" Integral ", Saratov, st. Chernyshevsky, 153, do not appear in the documents of enforcement proceedings, and no enforcement measures were taken against them.

The court considers this argument untenable on the following grounds.

As it was mentioned above, claiming that the court decision was not actually executed, the debtor does not provide any evidence of the fact that the optical fibers in the area indicated by him continue to be in his use and possession.

In addition, by the effective resolution of the Twelfth Arbitration Court of Appeal dated 12/13/2017 in case No. A57-233 / 2017, the court ordered JSC "Firm" SMUR ", Voronezh to return to LLC "Company" ALS and TEK" four optical fibers in the fiber-optic communication line "Saratov-Ozinki" in the second stage - optical fibers in the section from Ershov to Saratov: from an optical crossbar in a container on the territory of the RTRS "Saratov ORTPTs" at the address Saratov region, Ershov, st. Meliorative, 32A, to the main distribution coupling MRM28 near the settlement of Pushkino, Sovetsky District, Saratov Region, from the distribution main coupling MPM28 near the item Pushkino, Sovetsky District, Saratov Region. before the optical cross in a container on the territory of the Open Joint Stock Company "Urbakhskiy kombinat khleboproduktov" at the address Saratov region, Sovetskiy district, Pushkino, st. Zavodskaya, 1 a, from the clutch

distribution main MRM28 near the village of Pushkino, Sovetskiy district, Saratov region. to optical cross-country "VOSTOK" LLC "Company" ALS and TEK ", Saratov, st. B. Kazachya, 6, from optical cross-country "VOSTOK" LLC "Company" ALS and TEK ", Saratov, st. B. Kazachya, 6 to the optical cross of LLC "Companies" ALS and TEK "on the territory of the Open Joint Stock Company" Integral "at the address Saratov, st. Chernyshevsky, 153, actually received for temporary use by a Closed Joint Stock Company

"Firm" SMUR ", Voronezh under the act of acceptance and transfer of property for temporary use dated 10.10.2012 in accordance with the terms of contract No. 3 / 12-12 for the sale of optical fibers and a share in the right of common ownership in a fiber-optic line communications on the territory of the Voronezh and Saratov regions, concluded on 09/04/2012 between LLC

"Company ALS and TEK" and CJSC "Firm SMUR". According to the arguments of LLC "Company" ALS and TEK ", the departure of the bailiff-executor to the premises at the address: Saratov, Volzhsky district, st. Chernyshevsky 153, was not required, since, despite the fact that one of the points of passage of the disputed FOCL route passed in the Volzhsky district of Saratov, this, in the opinion of the claimant, did not require a bailiff to take action in this particular place, as to measure and establish the normal quality of optical fibers could be from another point, located in the Kirov region of Saratov (B. Kazachya st., 6), which makes it possible to make an optical reflectometer.

In the same regard, despite the passage of the disputed fiber-optic communication line and across the Saratov-Engels bridge, and in the city of Engels, and in the Engels district, no executive actions were carried out in these areas. The above arguments of the claimant were not refuted by the debtor.

LLC "Company" ALS and TEK "confirmed that the property was received on June 22, 2018 in pursuance of the executive document within the framework of executive proceedings No. 29540/18/64042-IP, which is recorded in the act on the execution of executive actions.

Thus, the requirements of the executive document in case No. A57-233 / 2017 were fulfilled. This enforcement proceedings were subject to termination under paragraph 1 of part 1 of Article 47 of the Law on Enforcement Proceedings.

In addition, the court notes that by the decision of the Twelfth Arbitration Court of Appeal of 13.08.2019 in case No. E. of 20.11.2018 on the cancellation of the decree of 19.07.2018 on the end of enforcement proceedings No. 29540/18/64042-IP.

Taking into account the foregoing, no legal and factual circumstances should be completed by enforcement proceedings No. 74142/18/64042-IP (previous 29540/18/64042-IP) upon the claims of the claimant, LLC "Company ALS and TEK", respectively, dated 11.03.2019. and from 11.04.2019, it was not available.

The argument of the bailiffs set out in the contested decisions about the presence of "... currently pending litigation ..." was not a legal basis for refusing to satisfy the applications filed by LLC "Company ALS and TEK".

Consequently, the claims of the claimant to the bailiffs-executors dated 03/11/2019 and 04/11/2019 were justified, however, the bailiffs-executors acted without taking into account the factual circumstances of the execution of the court order, unreasonably refusing to satisfy the requests made by the party to the enforcement proceedings.

In this case, the legal grounds at the time of the applicant's appeal to the Bailiffs' Service on 11.03.2019

and 11.04.2019 for the termination of the enforcement proceedings were in fact, but were not taken into account by the bailiffs. In view of the foregoing, the contested decisions violated the norms of the Federal Law on Enforcement Proceedings set out above.

The violation of the rights and legitimate interests of ALS and TEK Company LLC in the field of entrepreneurial and other economic activities was expressed in the fact that the contested decisions establish the fact of non-execution of the executed enforcement proceedings, create legal uncertainty for the claimant regarding the property received by him and transferred to a third party under the contract purchase and sale, require additional costs for the performance of other procedural actions, in particular, they force the other party of the enforcement proceedings, which took execution (LLC "Company" ALS and TEK ), to take actions aimed at judicial protection of their rights and legitimate interests in the field of business activities, in particular, on judicial appeal of the above decisions and other actions (inaction) of the bailiffs-executors, which leads to financial costs for representatives (these court cases, as well as No. A57-28371\_2018, No. A57-28364 / 2018, A57- 16161/2018, A57-233 / 2017, A5 7-12788 / 2018, A57-14818/2018, A57-29166 / 2018).

Based on the foregoing, the stated requirements are subject to satisfaction. Guided by Articles 167 - 170, 201, 329 of the Arbitration Procedure Code Russian Federation, court

**DECIDED:**

Recognize illegal and cancel the decision of the bailiff-executor of the Kirovsky district department of bailiffs of the city of Saratov of the Office of the Federal Service of Bailiffs in the Saratov Region Tumaeva Ksenia Sergeevna dated 03/15/2019 on enforcement proceedings No. 74142/18/64042-IP (previous 29540/18/64042 -IP) on the refusal to satisfy the application of LLC "Company" ALS and TEK "dated 11.03.2019 about the end of enforcement proceedings.

Declare illegal and cancel the decision of the bailiff-executor of the Kirovsky district department of bailiffs of the city of Saratov of the Office of the Federal Service of Bailiffs in the Saratov Region Margarita Arturovna Shvab dated April 18, 2019 on enforcement proceedings No. 74142/18/64042-IP (previous 29540/18 / 64042-IP) on the refusal to satisfy the application of LLC "Company" ALS and TEK "dated 04/11/2019 about the end of enforcement proceedings.

The decision can be appealed in accordance with Art.Article. 257-259 APC RF by filing through the Arbitration Court of the Saratov Region an appeal to the Twelfth Arbitration Court of Appeal within one month from the date of the decision, in accordance with Art. 273-276 of the Arbitration Procedure Code of the Russian Federation by filing a cassation appeal through the Arbitration Court of the Saratov Region with the Arbitration Court of the Volga District within two months from the date of entry into force of the decision.

The full text of the decision will be made within five days from the date of announcement of the operative part of the decision and sent to the parties to the case in accordance with Article 177 of the Arbitration Procedure Code of the Russian Federation.

Arbitration Judge  
court of the Saratov region T.AND. Viklenko