

M/S. AVTAR SINGH & CO. PVT. LTD.

v.

M/S. S.S. ENTERPRISES AND ORS.

MARCH 11, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Suit—Transfer petition for—Agreement for distribution of film—Subsequent agreement by respondent with appellant—Suits in respect of agreement—First suit at Bombay Civil Court alleging cancellation of agreement and seeking injunction—Second suit at Madras High Court seeking declaration of right under the latter agreement—Injunction granted confirmed by Division Bench—Appeal pending in this Court—Third suit by respondent on original side of Bombay High Court subsequent to injunction granted by Madras High Court—Contempt proceedings pending before Bombay High Court pursuant to order of injunction—Held instead of transferring the Bombay suit to Madras the proceedings in Bombay Court stayed till suit before original side of Madras High Court is disposed—Contempt pending before High Court to be dealt with in accordance with law—Direction to Madras High Court to dispose of the suit expeditiously—Status quo directed pending disposal of SLP confined to the rights of petitioner pursuant to subsequent agreement.*

CIVIL ORIGINAL JURISDICTION : Transfer Petition (C) No. 658 of 1995.

(Under Article 139A(1)/(2) of the Constitution of India.)

D.A. Dave, Vijay Kumar, Ms. Sangeeta Kumar for the Petitioner.

F.S. Nariman, M. Karanjawala, Gaurab Banerjee, M.L. Ranjeet, Ms. Ruby Ahuja and R.N. Karanjawala for the Respondents.

Ashok M. Sarogi and Ms. S. Usha Reddy, for the Respondent No.

3.

Bhimrao Naik and Revathy Raghavan for Impleading party.

The following Order of the Court was delivered :

We have heard learned counsel on both sides.

In this case, admittedly, there was an agreement dated February 28, 1985 which M/s. S.S. Enterprises, a partnership firm had with R. Venkatraman for the distribution of film 'Aag Ka Dariya'. It would appear that subsequently there was an agreement dated 7.10.1993 in favour of the petitioner M/s. Avtar Singh & Co. Pvt. Ltd. in respect of the same film. In respect of the distribution of the said film now three suits are pending. The first suit was filed by R. Venkatraman in the City Civil Court at Bombay wherein he has claimed that the agreement dated January 28, 1985 was cancelled and has sought an injunction against M/s. S.S. Enterprises. The second suit, viz., Suit No. 1136/95 was filed by the petitioner on the Original Side of the High Court of Madras for declaration of his rights under the later agreement and also for an *ad-interim* injunction which was granted. That interim injunction which was confirmed by the Single Judge and was upheld by the Division Bench on appeal which is the subject matter of SLP (C) Nos. 27695-96/95 pending in this Court. Therefore, we need not go into the correctness or otherwise of the injunction granted in that behalf. The third suit was filed by the respondent- S.S. Enterprises, viz., Suit No. 3793/95 on the Original Side of the Bombay High Court subsequent to the order of the injunction granted by the learned Single Judge of the Madras High Court. The respondent had an *ad-interim* injunction in that suit. We are informed that contempt proceedings are pending pursuant to the order of injunction granted by the learned Single Judge. In this behalf also, we need go into that controversy as well and the parties are at liberty to have the matter disposed of by the learned Single Judge in those contempt proceedings.

The only question is : whether the suit pending in the Bombay High Court requires to be transferred to the Original Side of the High Court of Madras to be tried alongwith the Suit No. 1136 of 1995 which is a comprehensive suit and first in point of time ? Under those circumstances, we think that instead of transferring the Bombay suit to the Madras High Court the further proceedings in Bombay suit should stand stayed till the suit before the Original Side of the Madras High Court is disposed of. This order will not have any effect on the disposal of the contempt proceedings pending before the learned Single Judge of the Bombay High Court which would be dealt with in accordance with law.

The learned Single Judge of the Madras High Court is requested to dispose of the suit as expeditiously as possible, preferably within 6 months

from the date of the receipt of the copy of the order. It is an admitted position that two prints of the film have already been despatched to Singapore for distribution. It is apprehended by the respondents M/s. S.S. Enterprises that further prints are likely to be despatched to the other foreign jurisdictions. Shri Naik, the learned counsel appearing for the impleading party, to be impleaded, states that his right would be affected if any *status quo* order is granted. It would be in fitness of things that the *status quo* pending disposal of the above SLPs is confined to the rights the petitioner had pursuant to the contract dated October 7, 1993; it would be open to the clients of Shri Naik, if he had any right to seek impleadment in the pending SLPs against injunction order passed by the learned Single Judge and confirmed by the Division Bench of the Madras High Court, the subject matter of SLP (C) Nos. 27695-96/95. We need not go into the controversy between the parties said to be had by the clients of Shri Naik vis-a-vis of M/s. S.S. Enterprises. It would be open to them to make an application seeking impleadment as party in pending SLP (C) Nos. 27695-96/95. The interim order passed in this case stands modified by this order.

The Transfer Petition is disposed of accordingly.

Petition disposed of.