Shri Manna Lal and Another

Vs

Collector of Jhalawar and Others

Civil Appeal No. 88 of 1957

(CJI B.P. Sinha, S.K. Das, A.K. Sarkar, N. Rajgopala Ayyangar, J.R. Mudholkar JJ)

07.12.1960

JUDGMENT

SARKAR, J. -

The appellants are traders of Jhalawar. Respondent No. 1, the Collector of Jhalawar, served on the appellants a notice under section 6 of the Rajasthan Public Demands Recovery Act, 1952, hereinafter called the Act, for the recovery from them as a public demand, of Rs. 2,24,607/6/6 said to be due on account of loans taken by them from the Jhalawar State Bank. The appellants filed a petition under section 8 of the Act contending, among other things, that the amount sought to be recovered from them was not a public demand. Respondent No. 1 appears to have called upon the appellants to prove that it was not a public demand. The appellants without proceeding further before respondent No. 1, filed a petition in the High Court of Rajasthan for the issue of a writ quashing the proceedings under the Public Demands Recovery Act. The High Court dismissed the petition but granted a certificate that the case was fit for an appeal to this Court. Hence the present appeal.

The only question raised in this appeal is whether any loan due to the Jhalawar State Bank could be recovered as a public demand. A "public demand" within the meaning of the Act is "any money payable to the Government or to a department or an officer of Government under or in pursuance of a written instrument or agreement". The Government here means the Government of Rajasthan for the Act was passed in 1952 by the Rajasthan State Legislature. The question then is whether money due to the Jhalawar State Bank, is money payable to the Government of Rajasthan.

Now, the Jhalawar State Bank was started in 1932. At that time Jhalawar was a ruling State. Sometime in or about April, 1948, the State of Jhalawar, along with nice other ruling States of Rajputana, integrated and formed the United State of Rajasthan under a covenant executed by the Rules of these States. One of the articles of this covenant provided, "All the assets and liabilities of the covenanting States shall be the assets and liabilities of the United State." Subsequently, on March 30, 1949, the States of Bikaner, Jaipur, Jaisalmer and Jodhpur joined the United State of Rajasthan. On the promulgation of the Constitution of India, the United State of Rajasthan became a Part B State in the Indian Union. The assets of the previous ruling State of Jhalawar, which had earlier vested in the United State of Rajasthan, thereupon passed to and devolved upon the State of Rajasthan in the Indian Union.

The proceedings under the Act against the appellants were started by the filing of a requisition with respondent No. 1 by respondents Nos. 2 and 3, being respectively the Treasury Officer, Jhalawar, and the Recovery Officer, Jhalawar State Bank, under section 3 of the Act stating that the amount

earlier mentioned was due from the appellants to the Government of Rajasthan in respect of the claims of the Jhalawar State Bank against them. This was done presumably shortly prior to June 16, 1953, on which date respondent No. 1 signed a certificate specifying the amount of the demand and certain other particulars and filed it in his own office under section 4 of the Act. A notice of the signing and filing of the certificate was served upon the appellants under section 6 of the Act. This notice and the subsequent proceedings have been referred to in the beginning of this judgment.

The claim thus is in respect of moneys due to the Jhalawar State Bank. If that Bank was not the property of the Jhalawar State, then its dues cannot of course be said to have merged in the present State of Rajasthan. The appellants first contended that the Jhalawar State Bank was not the property of the State of Jhalawar. The only material to which we have been referred by the appellants in support of this contention is certain rules framed by the Ruler of Jhalawar in respect of the Bank. It was pointed out that the rules showed that the Bank was like any other commercial enterprise. We are unable agree that for this reason it could not be an institution belonging to the State. There was nothing to prevent the Jhalawar State carrying on a commercial undertaking. If it did so, the assets of that undertaking would be those of the State and, in the circumstances earlier mentioned, must now be held to be vested in the State of Rajasthan.

It was also said that the rules showed that the management of the Bank was in the hands of a board of which certain non-officials were members. It was contended that this showed that the Bank was not the property of the State. It is clear, however, from the rules that the Bank was not the property of the board. Again, the board was constituted from time to time by the Ruler and the majority of its members were officers of the State. This would show that the Ruler was in full control of the management of the Bank as a State undertaking. It is true that the rules indicate that the Bank might sue or be sued in respect of transactions made by or with it. That, however, would not indicate that the Bank had a separate identity. The rules in this connection only indicate in what name suits could be brought by or against the State's banking business. On the other hand, it is perfectly clear that the capital of the Bank was derived solely from the funds of the Jhalawar State. No part of it was contributed by anyone else. One of the objects of the Bank was to invest the surplus funds of the State. The entire transaction of the business of the Bank was in the ultimate control of the Ruler. The Jhalawar State guaranteed the financial liabilities of the Bank. The name "Jhalawar State Bank" also indicates that the institution belonged to the State of Jhalawar. About the time of the formation of the United State of Rajasthan in 1948, the Chief Executive Officer, Jhalawar, issued a public notification in which, after referring to the article in the Covenant which provided that the assets and liabilities of the covenanting States would be the assets and liabilities of the United State, he proceeded to state that by virtue of this article, on the formation of the new State, the responsibility and guarantee of the existing transaction with the different departments of Jhalawar State or the Jhalawar State Bank, would be of the newly formed United State of Rajasthan. This would show that the assets of the Jhalawar State Bank were being treated by all concerned as assets of the former Jhalawar State, which, upon the formation of the United State of Rajasthan, had vested in the latter State. Further, no one else has at any time made any claim to the assets of the Jhalawar State Bank. It is, therefore, clear beyond all doubt, that the Jhalawar State Bank was one of the assets of Jhalawar State and is now vested in the State of Rajasthan.

The second point argued for the appellants is that the dues of the Jhalawar State Bank have in any case been transferred by the Government of Rajasthan to the Bank of Rajasthan Ltd. under certain Notifications to which we shall presently refer. It is said that the Bank of Rajasthan Ltd. is, as its name shows, obviously a limited company having an independent existence and is not a department of the Government of Rajasthan State. It is also contended that this vesting took place before the

proceedings under the Act had started. Therefore, it is said that at the commencement of those proceedings, the amount claimed from the appellants as due to the Jhalawar State Bank, was not a public demand within the meaning of the Act.

This contention which is based on the Notifications, earlier mentioned, does not seem to us to be well founded. We will assume for the present purpose that the Bank of Rajasthan Ltd. is not a department of the Government of Rajasthan State. The question is whether the effect of these Notifications, which were two in number, was to vest the dues of the Jhalawar State Bank in the Bank of Rajasthan Ltd. The first Notification is dated February 15, 1951. It stated that the Government of the State of Rajasthan had decided to transfer, among others, the Jhalawar State Bank, to the Bank of Rajasthan Ltd. It was contended that by this Notification the assets of the Jhalawar State Bank were transferred to the Bank of Rajasthan Ltd. We do not think that was the effect of this Notification. It contained two very significant provisions which we set out below :

> "All debtors of the State Banks irrespective of the class, category and nature of the debt are hereby informed that within one month from the date of publication of this notice they should clear accounts with the aforesaid State Banks which will continue to function only to clear the old accounts, and thereafter their accounts with the securities pledged will automatically be transferred to the Bank of Rajasthan Ltd., who will be authorised on behalf of the State, to effect necessary recoveries and settle accounts.
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> The transfer of these debts to the Bank of Rajasthan Ltd. will not, on any account, take away the inherent right which the Rajasthan Govt. possess in these various transactions made on the guarantee of the respective covenanting States to make recoveries and settle accounts in accordance with the existing rules or laws that may hereafter be made to effect recovery of State dues or State debts."

It is clear from these provisions that the Bank of Rajasthan Ltd. was being authorised "on behalf of the State", that is, the Government of the State of Rajasthan, to recover the amounts due to the Jhalawar State Bank. The transfer of the latter Bank to the Bank of Rajasthan Ltd. was to be subject to this qualification that its dues would remain the dues of the Government of the State of Rajasthan and would only be recovered by the Bank of Rajasthan Ltd. as the agent of that Government. The last paragraph set out above emphasis this position. It preserves the right of the Government of the State of Rajasthan to recover the amounts due to the Jhalawar State Bank in accordance with any law that might be made after the date of the Notification. The position then is that under this Notification the debts due to the Jhalawar Bank were not transferred to the Bank of Rajasthan Ltd. and remained payable to the Government of Rajasthan. The other Notification is dated April 16, 1952, and it repeats that the banks mentioned in the earlier Notification, including the Jhalawar State Bank, "will be merged in the Bank of Rajasthan Limited". It is said that the effect of this Notification was in any event to cancel the earlier Notification, in so far as the later preserved the power of the State to collect the debts of the Jhalawar State Bank. We are wholly unable to agree. This Notification only reiterates the intention of the Government of the State of Rajasthan to merge the banks named, in the Bank of Rajasthan Ltd. It says nothing specifically about the dues of these banks or as to their recoveries, with regard to which, therefore, the provisions of the previous Notification must have effect. Furthermore, there is nothing to show that the debts due to the Jhalawar State Bank were by any document specifically transferred to or vested in the Bank of Rajasthan Ltd. and thereupon became its property. That being so, there is no basis for the contention that the debts due from the appellants are now due to the Bank of Rajasthan Ltd. in its own right. It

would follow that such debts remained debts due to the Government of the State of Rajasthan.

The third point argued was that the moneys claimed from the appellants were not payable under a written instrument or agreement. This contention is wholly unfounded. It appears that the loans were granted by the Jhalawar State Bank to the appellants on their own applications. In each application the appellants stated that they wanted a loan from the Jhalawar State Bank and promised to repay it with interest at the rate mentioned in it. By these applications the appellants also proposed to hypothecate various properties belonging to them as security for the due repayment of the loans taken. They signed the applications and the receipts, which latter also bore the signatures of the officers of the Bank in token of the sanction of the loan. In our view, the money payable by the appellants was payable under these applications and receipts and was, therefore, payable under written instruments or agreements. A point was sought to be made that in each case there were two documents, namely, the application by the appellants and the receipt for the moneys advanced signed by them, whereas a public demand as defined in the Act, required one instrument. It is enough to say in regard to this contention that the Act does not say that the moneys shall be due under a single instrument. It is well-known that in a statute a singular includes the plural. In our case, the two documents constituted the written agreement between the parties and that is enough to satisfy the requirement of the Act, even if read in the way suggested by the appellants.

The fourth point advanced was that the certificate under the Act was defective and therefore the proceedings were a nullity. Section 4 of the Act requires that the certificate shall be in the prescribed form. One of the particulars to be stated in the form, requires that the period for which the demand was due should be specified. That period was not specified in the certificate in the present case. It seems to us however that this is no defect. In the case of loans due, there is no question of any period for which the demand is due. Obviously, the requirement as to the specification of the period was meant to apply where the demand consisted of a claim for revenue or rent or the like, which could be due for a period. It is clear to us that the requirement as to stating the period for which the demand is due, as appears from the prescribed form, does not arise in the case of a loan due to the Government which is a public demand within the Act and in such a case no question of stating the period arises. The certificate was not, therefore, defective.

The last point argued was that in so far as the Act enables moneys due to the Government in respect of its trading activities to be recovered by way of public demand, it offends Art. 14 of the Constitution. It is said that the Act makes a distinction between other bankers and the Government as a banker, in respect of the recovery of moneys due. It seems to us that the Government, even as a banker, can be legitimately put in a separate class. The dues of the Government of a State are the dues of the entire people of the State. This being the position, a law giving special facility for the recovery of such dues cannot, in any event, be said to offend Art. 14 of the Constitution.

We have now discussed all the points raised in this appeal and are unable, for the reasons earlier mentioned, to find merit in any of them. In the result we come to the conclusion that the amount claimed from the appellants was a public demand within the meaning of the Act and was legally recoverable by the impugned proceedings. This appeal therefore must be dismissed with costs and we order accordingly.

Appeal dismissed.

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