

State of Haryana and Others

Vs

Karnal Distillery Co. Ltd. and Another

Civil Appeal No. 1294 of 1976

(CJI A.N. Ray, M.H. Beg, Jaswant Singh JJ)

29.11.1976

JUDGMENT

RAY, C.J. –

1. This appeal is by special leave from an order dated September 15, 1976, passed by the High Court of Punjab and Haryana in Civil Writ Petition 6176 of 1976.

2. The High Court passed the following order :

Admit Notice. There will be no interim order permitting the petitioner to manufacture liquor. There will be stay of dispossession. To be heard on November 8, 1976.

3. The State filed an application in Civil Appeals 866-867 of 1971 decided by this Court on April 22, 1976, for initiating contempt proceedings under Contempt of Courts Act of 1971 against the Distillery for not abiding by the order of this Court. The second prayer in that application is a direction that the Distillery be restrained from proceeding with Civil Writ Petition 6176 of 1976 pending in the Punjab and Haryana High Court.

4. Civil Appeals 866-867 of 1971 came up for hearing on March 17, 1976. On March 19, 1976 they were adjourned at the instance of the counsel for the appeals referred to as the Distillery. The purpose for adjournment was to effect settlement, if any, with the State of Haryana referred to as the State. The appeals were adjourned till April 19, 1976. On April 19, 1976 counsel who appeared in March, 1976, for the Distillery did not appear. Another counsel appeared. On April 20 and 21, 1976 the appeals were not heard because this Court heard some specially fixed matters. The appeals again came up for hearing on April 22, 1976. After counsel for the Distillery argued for a while he realised the difficulties in regard to his contentions and submissions. We expressed the view that we were unable to accept the appeal. Counsel for the Distillery then invited this Court to pass the following order :

On the expiry of the licence held by the appellants company on September 6, 1976 the company will cease to manufacture liquor or spirit under the licence. This concludes all proceedings in respect of the licence forming the subject matter of these appeals. There will be no order as to costs.

5. It is necessary to refer to a few features concerning the passing of the order dated April 22, 1976 in the appeals. This Court found on merits that it was not possible to allow any distilling operations

at Karnal on the materials on record. Counsel for the Distillery did not want this Court to pronounce any judgment because he accepted the position that the appeals would be dismissed on merits. It is in this background that counsel for the Distillery invited this Court to pass the order which was made. We refer to this feature only for the purpose of recording that we were not willing to allow the Distillery to carry on manufacture of liquor at Karnal. It is only because the Distillery wanted some time to dispose of goods and remove goods that the Distillery was given time till September 6, 1976.

6. Counsel for the appellants relied on the affidavit affirmed on November 4, 1976 by the Distillery in answer to the notice for initiating contempt proceedings. In that affidavit it is said that the words "on the expiry of licence held by the appellants company on September 6, 1976 unless it is renewed" were suggested to be incorporated in the order and that this Court observed that it was not necessary to do so. This Court does not wish to dwell on such allegations in the affidavit because the order dated April 22, 1976 speaks for itself. Obviously if the Distillery were entitled to renewal of the licence at Karnal the appeals would not have been dismissed.

7. The appeals turned on the validity of notice dated December 14, 1964 which determined the licence with effect from December 21, 1965. Dismissal of the appeals means that the contentions of the Distillery challenging the validity of the notice determining the licence were not acceptable to this Court. Counsel for the Distillery asked for some time before stoppage of work at the site of the distillery. September 6, 1976 was mentioned by the appellants. The respondents agreed to that date. Therefore, the order stated that the appellants were "to cease manufacture of liquor under the licence after September 6, 1976". This Court makes it clear that this Court never pronounced on the validity of any licence.

8. The Distillery in Writ Petition 6176 of 1976 in the High Court of Punjab and Haryana High Court asked for renewal of the licence for the year 1976-77 for manufacture of liquor at the distillery at Karnal. After the Distillery invited this Court to pass the order on April 22, 1976 it would not be open to the Distillery to ask for renewal of licence at the distillery at Karnal beyond September 6, 1976.

9. The Distillery in filing the writ petition in the Punjab and Haryana High Court for renewal of licence at Karnal Distillery misled the Court and started proceedings for oblique and ulterior purposes.

10. The order passed by the High Court granting stay of dispossession is set aside.

11. Counsel for the Distillery suggested that some time should be given to the Distillery to bottle the liquor manufactured and lying at the Distillery for disposal. Rule 10 of the Punjab Distillery Rules 1932 is as follows :

If a licence be revoked, cancelled or determined the licensee shall dispose, under the conditions of his licence of his stock of spirit, apparatus, storage vessels and other distilling plant in such manner as the Financial Commissioner may direct.

12. The Financial Commissioner will give suitable directions in accordance with Rule 10 of the Punjab Distillery Rules, 1932 for disposal of the stock of spirit, apparatus, storage vessels and other distilling plant.

13. For the foregoing reasons the appeal is accepted and the order of the High Court granting stay of

dispossession is set aside. We do not propose to pass any order on the application for initiating proceedings for contempt. There will be no order as to costs.

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