

Avtar Singh & Co. Pvt. Ltd.

Vs

S.S. Enterprises and Others

Transfer Petition (C) No. 658 of 1995

(K. Ramaswamy, G.B. Pattanaik JJ)

11.03.1996

### JUDGMENT

1. We have heard learned counsel on both sides.

2. In this case, admittedly, there was an agreement dated 28-2-1985 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 28-1-1985 (sic 28-2-1985) was cancelled and has sought an injunction against M/s S,S, Enterprises. The second suit, viz., Suit No. 1136 of 1995 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 SLPs (C) Nos. 27695-96 of 1995 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 of 1995 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 not 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.

3. 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 along with 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 the 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.

4. 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 the 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 7-10-1993; 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 SLPs (C) Nos. 27695-96 of 1995. 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 SLPs (C) Nos. 27695-96 of 1995. The interim order passed in this case stands modified by this order.

5. The transfer petition is disposed of accordingly.