

SUPREME COURT OF INDIA

Shakti Zarda Factory (I) Pvt. Ltd.

Vs.

M/s. Kathil Tobacco, Bhandar

S.L.P.(C) No.18193 of 2001

(D.P. Mohapatra, Brijesh Kumar and D.M. Dharmadhikari JJ.)

09.05.2002

JUDGMENT

D.P. Mohapatra, J.

1. Feeling aggrieved by the interim order passed by the Punjab and Haryana High Court on 7.9.2001 in FAO No. 2911/2001, the petitioner M/s. Shakti Zarda Factory (I) Pvt. Ltd., filed this special leave petition. By the impugned order the learned Single Judge modified the order dated 12.6.2001 of the Additional District Judge, Muktsar, to the extent that the appellant i.e. M/s. Kathil Tobacco Bhandar respondent No. 1 herein, shall stand restrained from using the name 'Swagat' on its Tobacco products within the territory of the State of Punjab and Haryana and further that the order shall be subject to the order, if any, passed by the Delhi High Court in the matter which is pending between the parties.

2. By the order dated 12.6.2001 passed in suit No. 1 of 2001 the Additional District Judge-II Muktsar (D) had restrained the defendants, respondents herein, from using the trade mark and from infringing copy right of the plaintiff-Company, petitioner herein, in the name of 'Swagat'.

3. From the documents placed before us it appears that both the parties have filed suits against each other relating to the dispute over use of the mark 'Swagat' for their products. While the respondents have filed suit No. 1210 of 2001 against the petitioner which is pending in the Delhi High Court, the petitioner has filed suit No. 1/2001 which is pending in the Court of the Additional District Judge (II) Muktsar (D). The respondents have also filed an application under Section 10 of the Civil Procedure Code for stay of the petitioner's suit. That application is pending. Further the records show that the courts, the Additional District Judge-II, Muktsar, the Punjab and Haryana High Court and the Delhi High Court have passed interim orders in the suits filed by the parties.

4. This Court by the order dated 30.10.2001 passed in the present special leave petition granted stay of operation of the impugned order and enjoined the respondents from using the name 'Swagat' on the Tobacco products manufactured by them.

5. On consideration of the facts and circumstances of the case we are of the view that the suit pending in the Delhi High Court should be disposed of expeditiously. Accordingly, it is ordered that the Delhi High Court will dispose of suit No. 1210/2001 titled. M/s. Saket Kathil v. M/s. Shakti Zarda Factory (I) Pvt. Ltd. expeditiously within six months of communication of this order. Till disposal of the suit by the trial Court the interim order passed by this Court on 30th October, 2001 shall continue. It is further ordered that the suit No. 1 of 2001 pending in the Court of Additional District Judge (II) Muktsar titled M/s. Shakti Zarda Factory (I) Pvt. Ltd. v. Jiwan Lal Rana and others etc. will remain stayed till disposal of the aforementioned suit by the Delhi High Court.

6. The Special Leave Petition is disposed of on the above terms. No costs.
Order accordingly.