

SUPREME COURT OF INDIA

Vinedale Distilleries Ltd.

Vs.

Dena Bank

(Altamas Kabir, Aftab Alam and Surinder Singh Nijjar JJ.)

11.01.2010

JUDGEMENT

Altamas Kabir, J.

1. These Transfer Petitions have been filed by M/s Vinedale Distilleries Ltd. for transfer of two Original Applications pending before the Debts Recovery Tribunal (hereinafter referred to as 'the DRT'), Hyderabad, to the DRT, Jhandewalan, Delhi. While O.A. No.29 of 2000 was filed by Dena Bank against the Petitioner Company, S.A. No.157 of 2008 was filed by the Petitioner Company against Dena 4 Bank before the DRT, Hyderabad. The said applications had been made on the basis of an order passed by this Court on 4th January, 2008, in Transfer Petition (C) No.945 of 2006. While allowing the said Transfer Petition and thereby transferring various suits pending between the parties before the Civil Court in Andhra Pradesh to the Delhi High Court, this Court, on consent of the parties, also directed as follows :- "In order to avoid any future confusion, on consent of the parties, any suit which may be filed in future touching upon the control and management of the Company in question, should be filed before the Hon'ble Delhi High Court, which will decide the matters."

2. Having regard to the above direction, the Petitioners herein have prayed that the two above- mentioned matters filed under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as 'the DRT Act') and Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Securitization Act'), both pending before the DRT, Hyderabad, be transferred to the DRT, Jhandewalan, Delhi.

3. Appearing in support of the Transfer Petitions, Mr. Chetan Sharma, learned Senior Advocate, submitted that since by virtue of the aforesaid order dated 4th January, 2008, all matters pertaining to the Petitioner Company and its management had been transferred to the Delhi High Court in order to avoid confusion, the proceedings pending before the DRT, Hyderabad, were also required to be transferred to the DRT, Jhandewalan, Delhi, so that all matters pertaining to the Vinedale Distilleries and its management could be heard and disposed of by the Delhi High Court exclusively. Mr. Sharma submitted that in order to

avoid a possible conflict of decisions among Courts operating in different territorial jurisdictions in 6 regard to the management and control of the Petitioner Company, this Court had directed all matters relating to the Company and its management to be decided by the Delhi High Court exclusively.

“Mr. Sharma submitted that even further proceedings against the Award of the DRT in Delhi would have to be filed before the Delhi High Court which was also in seisin of the matters pertaining to the management of the company. Mr. Sharma submitted that in the interest of justice and in keeping with the spirit of the order passed by this Court on 4th January, 2008, the pending proceedings before the DRT, Hyderabad, should be transferred to the DRT, Jhandewalan, Delhi.”

4. Responding to Mr. Sharma's submissions, Mr. Rakesh Tikku, learned Advocate appearing for Respondent No.1 Bank, contended that in view of the disputes among the three groups fighting for the management of the Petitioner Company, the payment of the dues of the Bank were being successfully 7 avoided. It was submitted that the present applications were nothing but a ploy to further defer payment of the outstanding dues of the Bank amounting to almost Rs.19 crores as on the date of the hearing. It was submitted that in the contest relating to the management of the Company, the payment of the dues of the Bank were being sidelined and the Bank was, therefore, willing to abide by any order that might be passed by this Court in the present Transfer Petitions since its only concern was to recover its dues from the Petitioner Company. In fact, learned counsel for the Bank questioned the manner in which one group, referred to as the S.K. Agarwal Group, had initiated the proceedings before the DRT, Hyderabad, challenging the order passed by the Bank under Section 13(4) of the Securitization Act in January, 2006, after a delay of 786 days.

“According to learned counsel, the very situation which this Court had wanted to avoid by its order dated 4th January, 2008, was sought to be frustrated 8 by the filing of the Appeal by the S.K. Agarwal group before the DRT, Hyderabad, while all the other matters pertaining to the Company and its management were pending in Delhi.”

5. The petitioner's prayer for transfer of the pending proceedings before the DRT, Hyderabad, was, however, seriously opposed on behalf of private respondents. It was urged by Mr. E.C. Agrawala, learned Advocate appearing for the private respondents, that the proceedings before the DRT, Hyderabad, were not covered by the directions contained in the order passed by this Court on 4th January, 2008. Mr. Agrawala submitted that the said order related only to suits in regard to the management and control of the Petitioner Company.

“As far as the proceedings before the DRT, Hyderabad, are concerned, Mr. Agrawala submitted that they related to the recovery of the outstanding dues of the Bank which the Bank was entitled to initiate before the Debts Recovery Tribunal and had nothing to do with the management 9 of the Company as such. It was urged that the proceedings before the DRT were and would have to be treated on a different footing in relation to the suits pending before the Delhi High Court for the right to manage the

Company. Mr. Agrawala submitted that there was, therefore, no ground made out on behalf of the Petitioner Company for transfer of the proceedings before the DRT, Hyderabad, to the DRT, Jhandewalan, Delhi.”

6. We have carefully considered the submissions made on behalf of the respective parties, and, although, technically speaking the proceedings before the DRT, Hyderabad, are not covered by the directions contained in the order of 4th January, 2008, due weightage has to be given to the intention of this Court that all matters pertaining to the management of the Petitioner Company should be heard and decided by one Court to avoid conflicting judgments. In fact, that was the very object and purport with which all the pending civil matters in the State of Andhra Pradesh touching the 10 management of the Petitioner Company were directed to be heard by the Delhi High Court exclusively. In keeping with the above intention and purport of the said order, it was only but reasonable that the proceedings before the DRT, Hyderabad, should be transferred to the DRT, Jhandewalan, Delhi, since all the other proceedings relating to the management and control of the Petitioner Company are being heard by the Delhi High Court.

“Furthermore, it is the Delhi High Court which is the appellate forum against an order of the DRT, Delhi. Therefore, in keeping with the spirit of the directions contained in the order of 4th January, 2008, we are inclined to allow the Transfer Petition filed by M/s Vinedale Distilleries Ltd.”

7. The Transfer Petitions are, therefore, allowed.

Let O.A. No.29 of 2000, Dena Bank vs. M/s Vinedale Distilleries Ltd. & Ors., and Securitization Application No.157 of 2008, M/s Vinedale Distilleries Ltd. vs. Dena Bank, pending before the 11 Debts Recovery Tribunal, Hyderabad, Andhra Pradesh, stand transferred to the Debts Recovery Tribunal, Jhandewalan, Delhi.

8. There will, however, be no order as to costs.