
(1976) 11 SC CK 0049

In the Supreme Court Of India

Case No : Civil Appeal No. 1294 of 1976

State of Haryana and Others

APPELLANT

Vs

Karnal Distillery Co. Ltd. and Another

RESPONDENT

Date of Decision : 29-11-1976

Acts Referred:

Punjab Distillery Rules, 1932 — Rule 10

Citation : AIR 1977 SC 781 : (1977) 2 SCC 431 : (1977) 9 UJ 23

Hon'ble Judges : A. N. Ray, C.J.; M. Hameedullah Beg, J.; Jaswant Singh, J

Bench : Full Bench

Advocate : B. Sen and Girish Chandra, for the Appellant; B.R. Tuli and Harbans Singh. Advocate, for the Respondent

Final Decision : Allowed

Judgement

A.N. Ray, C.J.—This appeal is by special leave from an order dated 15 September, 1976 passed by the High Court Punjab and Haryana in Civil Writ Petition No. 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 8 November 1976.

3. The State filed an application in Civil Appeals No. 866-867 of 1971 decided by this Court on 22 April, 1976, for initiating contempt proceedings under Contempt of Courts Act of 1971 against the respondent for not abiding (with sic) by the order of this Court. The second prayer in that application is direction that the appellant be restrained from proceeding with Civil Writ Petition No. 6176 of 1976 pending in the Punjab and Haryana High Court.

4. Civil Appeals No. 866-867 of 1971 came up for hearing on 17 March, 1976. On 19 March, 1976 they were adjourned at the instance of counsel for the appellants

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 19 April 1976. On 19 April 1976 counsel who appeared in March 1976 for the Distillery did not appear. Another counsel appeared. On 20 and 21 April, 1976 the appeals were not heard because this Court heard some specially fixed matters." I've appeals again came up for hearing on 22 April, 1976. After a counsel for the Distillery argued for a while he realized 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 license held by the appellants company on 6 September, 1976 the company will cease to manufacture liquor or spirit under the license. This concludes all proceedings in respect of the license 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 22 April, 1976 in the appeals. This Court found on merits that it was not possible to allow any distillery 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 that the Distillery was given time till 6 September, 1976.

6. Counsel for the appellant relied on the affidavit affirmed on 4 November, 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 license held by the appellants company on 6 September, 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 22 April 1976 speaks for itself. Obviously if the Distillery were entitled to renewal of the license at Karnal the appeals would not have been dismissed.

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

8. The Distillery in Writ Petition No. 6176 of 1976 in the High Court of Punjab and Haryana asked for renewal of the license for the year 1976-77 for manufacture of liquor at the Distillery at Karnal. After the appellants invited this Court to pass the order on 22 April, 1976 it would not be open to the Distillery to ask for renewal of license at the Distillery at Karnal beyond 6 September, 1976.

9. The Distillery in filing the writ petition in the Punjab and Haryana High Court for renewal of license 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 appellants suggested that some time should be given to the appellants 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 license be revoked, cancelled or determined the licensee shall dispose, under the conditions of his license 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.