

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A.Nos. 13-14 & 15-16 in

Petition(s) for Special Leave to Appeal (Civil) No(s).15504-15505/2000

(From the judgement and order dated 19/04/2000 and 05/07/2000 in

IA No.3969/1999 & IA No.6398/2000 in Civil Suit No. 1776/1992 of

The HIGH COURT OF DELHI AT N. DELHI)

HINDUSTAN AERONAUTICS LTD.

Petitioner(s)

VERSUS

JAGSON INTERNATIONAL LTD.

Respondent(s)

(For directions and clarification of Court's order dated 22.1.2001

and 21.1.2002 and office report)

Contempt Petition (Civil) Nos. 249-250 of 2005 in

I.A.Nos.13-14 in S.L.P.(C) Nos.15504-15505 of 2000

Date: 02/12/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s) Mr. H.N. Salve, Sr. Adv.

Mr. Rajesh Kumar, Adv.

For Respondent(s) Mr. Arun Jaitley, Sr. Adv.

Mr. Suresh Chandra Tripathy, Adv.

UPON hearing counsel the Court made the following

O R D E R

By order dated 22nd January, 2001, Hindustan Aeronautics Limited was directed to deliver the aircraft to Jagson International

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Limited in terms stated in the order, however, clarifying that in the event the expenses incurred by Hindustan Aeronautics Limited exceed sum of Rs.50 lacs, it would be at liberty to lodge its claim before the High Court and it will decide the issue. In terms of this order, the aircraft has been delivered by the Hindustan Aeronautics Limited to Jagson International Limited. Thereafter, a claim was lodged by Hindustan Aeronautics Limited before the High Court against Jagson International Limited for a sum of Rs.3.3 crores. It was in March, 2002. Since the matter remained pending before the High Court, Interlocutory Application Nos.13-14 of 2004 were filed for issue of directions to Jagson International Limited for payment of amount of Rs.3,33,38,049.00 together with interest at the rate of 13.50 per cent per annum with effect from 1st February, 2002. Instead of directing payment, as claimed in the applications,

this Court, on 6th May, 2004, referred to its earlier order dated 21st January, 2002, regarding expeditious disposal of the matter by the High Court and noted that unfortunately the matter is pending for about two years before the High Court. It was stated that hearing will commence in July, 2004 and the same will continue on day-to-day basis and the matter would be disposed of expeditiously.

Despite that order, nothing substantive seems to

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have happened for a period of one year. Again, on Interlocutory Application Nos.13-14, an order was passed on 15th April, 2005, by this Court. The High Court was directed to dispose of the matter before closing of the Court for summer vacation. It has been six months since then and the matter is still pending with the High Court. We may, however, take note of the two orders passed by the High Court; one, dated 4th May, 2005 and the other dated 25th May, 2005.

By order dated 4th May, 2005, after rejecting various submissions made on behalf of the Jagson International Limited, the High Court directed filing of affidavit by the expert witness and fixed time schedule for recording of evidence before the Registrar (Vigilance), who is a senior judicial officer. The officer was directed to record evidence on day-to-day basis and submit a

report to the High Court by 25th May, 2005. Obviously, the order was made keeping in view the directions dated 15th April, 2005, of this Court for disposal of the case before summer vacation, i.e., 31st May, 2005. The expert witness was not cross examined by Jagson International Limited; instead review of the order dated 4th May, 2005, was sought by Jagson International Limited, which was dismissed on 25th May, 2005. The prayer made on behalf of Jagson International Limited that the matter may be referred to arbitration, which was strongly

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objected by the Hindustan Aeronautics Limited, was turned down.

The order notices that the report of the Local Commissioner revealed that the Jagson International Limited did not even care to cross examine the witnesses produced by the Hindustan Aeronautics Limited even in respect of affidavit filed on 11th May, 2005. The matter was adjourned to 27th May, 2005 and seems to be still pending before the High Court.

Hindustan Aeronautics Limited have filed Contempt Petition Nos.249-250 of 2005, annexing thereto the aforesaid order dated 4th May, 2005 and 25th May, 2005. Having heard learned counsel for the parties, we are of the view that at this stage, ends of justice would be met by directing Jagson International Limited to

deposit with the High Court, within a period of two weeks, a sum of Rs.two crores on account. The High Court would keep that amount in a Fixed Deposit in a Nationalised Bank. The disbursement of the amount would depend upon the ultimate direction of the High Court, which it may make on the claim of Hindustan Aeronautics Limited as in terms of the order dated 22nd January, 2001, it was granted opportunity to lodge its claim before the High Court. The High Court is seized of that issue. We hope that now, without any further delay, the High Court will be able to decide it. After the decision by the High Court, we would further examine the contempt petitions as also the final orders to be

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passed on Interlocutory Application Nos.13-14. In case the payment of the sum of Rs.two crores is not made, the Jagson International Limited will hand over the possession of the aircraft to Hindustan Aeronautics Limited. The question of its return to Jagson International Limited will be considered only after the matter is decided by the High Court. The parties are given liberty to mention the matter after the decision is rendered by the High Court.

[Alka Dudeja]

[V.P. Tyagi]

Court Master

Court Master