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C.A.No. 3610 OF 1998
ITEM No.109

Court No. 1

SECTION IVA

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

Civil Appeal No. 3610 of 1998

State of Karnataka and Anr.Appellant (s)

Versus

K.V. Amarnath and Ors.Respondent (s)

(With appln. for intervention/impleadment, directions and office report)

(With Contempt Petitionin C.A. No. 3610 of 1998)

With

C.A. Nos. 3611 and 3612 of 1998

Date : 13-08-2003 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.B. SINHA

For Appellant (s)

State of Karnataka Mr. Anil K. Mishra, Adv.

Mr. Satya Mitra, Adv.

for Mr. Sanjay R.Hegde, Adv.

in CA 3611 and 3612/1998Mr. D.P. Gupta, Sr.Adv.

Mr. N. Ganpathy, Adv.

In I.A.4 & 5 and Cont.Pet. Mr. A.K. Ganguli, Sr.Adv.

Mr. S. Ganesh, Sr.Adv.

Mr. Sanjiv Sen, Adv.

Mr. D.N. Mishra, Adv.

For Respondent (s)Mr. Arvind Kumar, Adv.

Ms. Laxmi Arvind, Adv.

Ms. Poonam Prasad, Adv.

Ms. Jaya Sinha, Adv.

Mr. Rajesh Mahale, Adv.

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UPON hearing counsel the Court made the following
O R D E R

The contempt petition and I.A. Nos. 4 and 5 are dismissed as withdrawn.

The civil appeals stand disposed of.

(Alka Dudeja)(Suraj Parkash)

Court Master Court Master

[Signed order is placed on the file.]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 3610 of 1998

State of Karnataka and Anr.Appellant (s)

Versus

K.V. Amarnath and Ors.Respondent (s)

With Contempt Petition in C.A. No. 3610 of 1998

C.A. Nos. 3611 and 3612 of 1998.

O R D E R

The Karnataka Excise (Sale of India and Foreign Liquors) Rule, 1968 (hereinafter referred to as 'the Rules') framed by the Government of Karnataka provided for grant of licence in Form No. CL 11 for a private Bonded Warehouse for deposit of stock Indian Liquor without payment of duty. Subsequently, in the year 1989, the said Rule was amended whereby the distributorship of the Indian made Liquor was canalised and it was provided that the distributorship licence would be granted only to a Company owned or controlled by the State Government as specified by the State Government. The said amendment of the Rules was challenged by means of petitions under Article 226 of the Constitution before the High Court. Those writ petitions were dismissed and special appeals filed against the said judgment were also dismissed by this Court. Subsequently, the 1989 Rules were amended by the Karnataka Excise (Sale of Indian made Foreign Liquor) Rules, 1997.

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By this amendment, the canalisation, as provided in 1989 Rules were abrogated and the pre 1989 position with regard to the distributorship was restored. It is at this stage a writ petition was filed in the nature of Public Interest Litigation before the High Court of Karnataka, challenging the validity of the 1997 Rules. The High Court of Karnataka allowed the writ petition and issued an order to the effect that the State of Karnataka shall enforce 1989 amended Rules against all the manufactures and distributors of Indian made Foreign Liquor. The State of Karnataka is in Appeal No. 3610 of 1998 against the aforesaid judgment of the High Court. When the matter was taken up, it was brought to our notice that the 1997 amended Rules have been repealed and the 1989 Rules have been substantially restored with slight modification. In that view of the matter, the appeal does not survive for adjudication as this Court does not entirely decide an academic question.

Learned counsel appearing for the State of Karnataka, however, urged that in any event the High Court could not have granted perpetual injunction in the nature it has granted. We find merit in this submission. We, therefore, set aside that part of the order whereby the High Court has commanded the State of Karnataka to enforce the 1989 Amended Rules in respect of all manufacture and distribution of Indian made Foreign Liquor.

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So far Appeal Nos 3611 and 3612 of 1998 are concerned, they have been filed against the alleged strictures passed against them by the High Court. It is conceded that these appellants were not parties to the writ petition and, therefore, any comment made by the High Court was totally uncalled for. All the strictures against them, therefore, stand expunged. With the aforesaid modifications, the appeals stand disposed of. The contempt petition and I.A. Nos. 4 & 5 are dismissed as withdrawn.

.....CJI.

.....J.
(S.B. Sinha)

New Delhi,

August 13, 2003.