

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

CONTEMPT PETITION (C) NO. 320 OF 2009 IN CRL. APPEAL No. 926/2006

NATIONAL FERTILIZERS LTD. Petitioner(s)

VERSUS

TUNCAY ALANKUS & ANR. Respondent(s)

(With appln(s) for exemption from filing O.T. and direction for restoration of amount in Pictet & CIE Bank Geneva and permission to file lengthy list of dates and office report)

Date: 01/04/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Mr. Gourab Banerji, ASG
Mr. Ghanshyam Joshi, Adv.
Mr. Sanjiv Kr. Saxena, Adv.

For Respondent(s) Mr. Bahar U. Barqui, Adv.
Mr. Mahmood Alam, Adv.
Ms. Vandana Sharma, adv.
Mr. A. Tariq, Adv.
Mr. Mehtab Ahmed, Adv.
Mr. Aftab Ali Khan, Adv.
With Respondent in person

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

The respondent No.1-contemnor is held guilty of
Contempt of Court in terms of the signed order.

List this matter on Monday, the 12th April,2010
for passing the sentence on the contemnor. We make it
clear that if by the said date, the contemnor deposits
the amounts withdrawn by him, we may consider recalling
our order passed today.

(Indu Satiya) (Ajay Kr. Jain)
Court Master AR-cum-PS

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION (C) No. 320 OF 2009
in
CRIMINAL APPEAL NO. 926 OF 2006

National Fertilizers Ltd. Appellant

Versus

Tuncay Alankus & Anr. Respondents

O R D E R

1. This is a petition for initiating contempt proceedings under Article 129 of the Constitution of India read with ORDER XLVII of the Supreme Court Rules, 1966 and Rule 3(c) of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975 against the respondent No. 1- Tuncay Alankus for flouting the orders of this Court dated 4.9.2006 read with order dated 14.12.2006 in Criminal Appeal Nos. 925-926/2006. It is further prayed in the petition that the contemnor be directed to restore the amount in the Swiss Bank, i.e., PICTET & CIE Bank, Geneva.

2. By order dated 14.12.2006, the interim order dated 4.9.2006 was made absolute to the effect that the respondent No.1-contemnor is restrained from withdrawing the amount from his accounts in a Swiss Bank till the decision of the matter.

3. Full facts have mentioned in the contempt petition and hence we are not repeating the same here.

4. It is alleged in the contempt petition that despite the orders of this Court dated 4.9.2006 and 14.12.2006 restraining respondent No. 1-contemnor from withdrawing any sums from his accounts in a Swiss Bank till the decision in the matter, he has withdrawn huge amounts running into millions of dollars from the Swiss Bank, i.e. Pictet & Cie Bank, Geneva. In this behalf Mr. Gourab Banerji, learned Addl. Solicitor General appearing for the petitioner has drawn our attention to a letter dated 09.03.2009 from the Pictet & Cie Bankers, Geneva wherein it is mentioned that the amounts have been withdrawn from the said bank.

5. From a perusal of the record, we are satisfied that these allegations are correct and that the respondent No.1-contemnor has willfully flouted the orders dated 4.9.2006 and 14.12.2006 of this Court and that he has no respect or regard for this Court at all. The respondent No.1-contemnor thinks that he can take this Court for a ride by

making frivolous and false excuses for disobeying our orders. We make it clear that this Court will not tolerate any such move of the respondent No.1-contemnor.

6. For the allegations made in the contempt petition, a notice had been issued to the contemnor. In the notice it was specifically mentioned that the charge against him is that he has violated the order of this Court dated 4.9.2006. In fact, the respondent No. 1-contemnor has filed his reply thereto. However, from a perusal of the reply filed by the contemnor it is clear that he has not denied the allegation of the petitioner that he has withdrawn money by flouting the order of this Court dated 4.9.2006.

7. From the above discussion, we are satisfied that there is sufficient material on the record to suggest that contemnor-respondent No. 1 has committed contempt of Court. Therefore, we hold the contemnor guilty of Contempt of Court.

8. In fact, even today, the contemnor is not prepared to return the money which he has withdrawn from his accounts in the Swiss Bank. We are informed that respondent No. 1-contemnor has withdrawn about 11 million dollars. Thus, there is no option but to punish him for Contempt of Court.

9. List this matter on Monday, the 12th April, 2010 for passing the sentence on the contemnor. We make it clear that if by the said date, the contemnor deposits the amounts withdrawn by him, we may consider recalling our order passed today.

.....J.
(MARKANDEY KATJU)

.....J.
(A.K. PATNAIK)