

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  
Criminal Appeal No. 926 of 2006

NATIONAL FERTILIZERS LTD. Petitioner(s)

VERSUS

TUNCAY ALANKUS & ANR. Respondent(s)

(With appln(s) for exemption from filing O.T., direction for restoration of amount in PICTET & CIE Bank, Geneva, permission to file lengthy list of dates, recalling the court's order and office report)

Date: 21/11/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM  
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s)

Mr. Gourab Banerjee, ASG  
Mr. Arjun Krishnan, Adv.  
Mr. Sanjiv Kumar Saxena, Adv.  
Mr. Ghanshyam Joshi, Adv.

For Respondent(s)

Mr. Shanti Bhushan, Sr. Adv.  
Mr. Mohammad Alam, Adv.  
Mr. Aftab Ali Khan, Adv. (NP)

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

Mr. Shanti Bhushan, senior advocate appearing for the contemnor - Tuncay Alankus, stated that on September 04, 2006, when this Court passed the interim order of injunction against his client (which was later confirmed by order dated December 14, 2006), there was no money in his account No. 91925 with the PICTET & CIE Bank, Geneva. There is, therefore, no question of any withdrawals from  
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that account after that date in violation of the court's orders.

In support of the statement, Mr. Bhushan placed great reliance on the decision of the Swiss Supreme Court dated June 01, 2006. The decision of the Swiss Supreme Court indeed takes note of the fact that on November 29, 1995, the petitioner (National Fertilizers Limited) paid a sum of \$3,76,20,000 into Account No. 91923 held by Karsan Danismanlik Turizm Sanayi Ve Ticaret Limited STI (shortly known as 'Karsan'). It then goes on to give a break up of the aforesaid sum of \$3,76,20,000 from which, on the following day, i.e. on November 30, 1995, a sum of \$2,81,00,000 was transferred to the contemnor's personal account No. 91925.

From the Swiss Court decision, it is not clear that on the date this Court passed the injunction order restraining the contemnor from withdrawing any amount from his account, the account was already bereft of any money.

Mr. Bhushan also relied upon a Certificate issued by the Bank, according to which the account in question was closed on July 25, 2006.

Mr. Gourab Banerjee, Additional Solicitor General appearing for the petitioner, submitted that on the date this Court passed the interim order against the contemnor, there was substantial money in his account. this averment, he referred to the order dated June 24, 1996 passed by the Special Judge, Delhi, granting bail to the contemnor and a certificate dated September 30, 2002 issued by the Bank (a copy of which is at Annexure P-3 of the Contempt Petition).

In support of

On the basis of the materials so far produced before us, we are not satisfied and we find it difficult to hold

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with any conviction that on the date the interim order of injunction was passed against the contemnor, there was, in fact, no money in his account with the PICTET & CIE, Geneva.

However, one thing is clear from the decision of the Swiss Court; that is, on November 30, 1995, a sum of \$2,81,00,000 was credited to the contemnor's personal account from the amount deposited by the petitioner in the account of Karsan.

We would like to see the bank statement of the contemnor's Account No. 91925 held with PICTET & CIE Bank from November 30, 1995 till the date of the closure of the account on July 25, 2006 to see the inflow and outflow of money from that account.

Mr. Bhushan prays for some time for producing the bank statement. As prayed by him, put up after six weeks.

Let a copy of this order be given to the counsel for the contemnor.

(N.S.K. Kamesh)  
Court Master

(Sneh Bala Mehra)  
Court Master