

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

PRESENT

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR**

WRIT APPEAL NO.130 OF 2015

DATED:26.2.2015

Between:

The Government of Andhra Pradesh, represented by its Principal
Secretary, Revenue (Excise-II) Department, Hyderabad and others.

... Appellants.

And

M/s. Saptagiri Wines, represented by its Proprietor B.Narender,
Hayathnagar (M), Ranga Reddy District.

... Respondent.

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR**

WRIT APPEAL No.130 of 2015

JUDGMENT: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

We entertain this appeal at the instance of the Commissioner, Prohibition and Excise, Government of Andhra Pradesh, Hyderabad, and the Prohibition and Excise Superintendent, Ranga Reddy District, Hyderabad, not at the instance of the then Government of Andhra Pradesh.

By virtue of Article 300 of the Constitution of India, no Government can be said to be *sui juris*. We set out Article 300 of the Constitution hereunder:

"300. Suits and proceedings.-- (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by an Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution--

- (a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and***
- (b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings."***

Therefore, in case of Central Government it should be Union of India, and in case of a State Government, the State should be *sui juris*,

not the Government. We have seen the writ petition and it appears that it has been filed against the Government of Andhra Pradesh, which is not *sui juris*. In other words, the writ petition has been filed against a non-existent party. We also notice the impugned order has been passed against a non-existent party again. Therefore, on that ground, we set aside the impugned order and restore the writ petition to its file for fresh hearing. Fresh hearing shall be taken provided the writ petitioner takes suitable steps for correction of the cause title of the writ petition within a period of seven days from the date of receipt of a copy of this order, failing which the writ petition itself shall stand dismissed. If such suitable steps are taken for correction of the cause title, the Hon'ble Trial Judge may consider the application and in the process if the writ petition requires to be heard, we request the Hon'ble Trial Judge to hear out the matter within a period of three months from the date of production of this order. All points are kept open to be decided afresh without being influenced and swayed by earlier decision in the writ petition.

The writ appeal is accordingly allowed.

Pending miscellaneous petitions, if any, shall stand closed.

There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

26.2.2015

BNR / GJ