

26.04.2023
Ct. No.1
Item No.2
RP/KS

M.A.T. 497 of 2023
With
I.A. No. C.A.N. 1 of 2023
Airports Authority of India
-Vs.-
Smokin Liquor Traders Private Limited & Ors.

Mr. Probal Kumar Mukherjee
Mr. Suhrid Sur

.....For the Appellant

Mr. Ratnanko Banerjee
Mr. Sarbapriya Mukherjee
Mr. Kapil Wadha
Mr. Gaganjyoti Singh
Mr. Shahrukh Raja

.....For the respondents

1. This intra Court appeal by the Airport Authority of India is directed against the order passed by the learned Single Bench dated 6th March, 2023, by which an order of stay has been granted. However, the first issue, which arose for decision before this Court was as regards the maintainability of the writ petition.
2. Admittedly, the respondent/writ petitioner responded to a tender Notification issued by the appellant/Airport Authority of India dated August, 2022 for the purpose of running a liquor shop in the Domestic Arrival Hall at the Netaji Subhas Chandra Bose International Airport at Kolkata.

3. The respondent/writ petitioner was declared as a successful tenderer and an extent of 40 square meter was allotted to the respondent/writ petitioner for the purpose of establishing the liquor shop. It is, thereafter, the respondent/writ petitioner submitted a representation requesting that the 40 square meter area be divided into two parts by 20 square meter each and they should be permitted to have two counters. Initially, the appellant had taken note of the said request and has also addressed the Excise Authority for necessary permission. There have been two letters to the said effect. However, subsequently the appellant took a decision and by letter dated 13.01.2023 they withdrew the initial offer of seeking permission from the Excise Authority to permit the respondent/writ petitioner to have two outlets each measuring 20 square meter. This was impugned in the writ petition.
4. Admittedly, the tender invited by the appellant/Airport Authority of India is for running a liquor shop in the Domestic Arrival Hall which is exclusively under the control of the appellant. Thus, merely because the appellant is a Government of India organization

that by itself will not bring the cause of action within the public law realm as it is purely a private law dispute. Therefore, the writ petition itself is not maintainable and the question of granting any interim order in the said writ petition does not arise.

5. Thus, the respondent/writ petitioner having not been able to convince as regards the maintainability of the writ petition, we are constrained to not only dispose of the appeal but also the writ petition as well.
6. In the result, the appeal is **allowed** and the writ petition is dismissed as not maintainable. However, since the appellant has already been awarded the tender in respect of the liquor shop to an extent of 40 square meter to the respondent/writ petitioner, we grant liberty to the respondent/writ petitioner to approach the appellant with fresh request, which the appellant shall consider uninfluenced by any observation made in this order. Consequently, the connected application is disposed of.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties

expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)