

Himachal Terpene Products (P.) Ltd. Vs. Registrar of Companies

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Court : Himachal Pradesh

Decided On : Jan-08-1974

Reported in : [1976]46CompCas200(HP)

Judge : R.S. Pathak, C.J.

Acts : [Companies Act, 1956](#) - Sections 10(2) and 141

Appeal No. : Company Petition No. 3 of 1973

Appellant : Himachal Terpene Products (P.) Ltd.

Respondent : Registrar of Companies

Judgement :

R.S. Pathak, C.J.

1. This petition was heard on October 19, 1973. The petitioner was represented by counsel but no one appeared on behalf of the Registrar of Companies nor was the Registrar present in person. After hearing learned counsel for the petitioner, the petition was allowed. Subsequently the Registrar of Companies sent a communication to this court inviting its attention to a notification No. G.S.R. 663. dated May 29, 1959, and he has submitted that, by virtue of that notification, the district courts alone have jurisdiction in respect of the subject-matter of the petition and that power in that respect no longer vests in the High Court. The contention is that the petition is not maintainable in this court. Upon this, notice was issued to the parties afresh. The Registrar of Companies has sent a submission in writing but he is neither present today nor is he represented by counsel. The petitioner is represented by Shri Kailash Chand, an advocate of this court.

2. Section 10 of the [Companies Act, 1956](#), defines the jurisdiction of the courts. According to Sub-section (1) thereof the court having jurisdiction under the Act is the High Court except to the extent to which jurisdiction has been conferred on a District Court subordinate to the High Court in pursuance of Sub-section (2). Sub-section (2) provides that the Central Government may, by notification in the official Gazette and subject to such restrictions, limitations and conditions as it thinks fit, empower a District Court to exercise all or any of the jurisdiction conferred by the Act upon the court, except the jurisdiction conferred by certain specified provisions of the Act.

3. A notification No. G. S. R. 663, [1959] 29 Comp Cas (St) 230 dated May 29, 1959, was issued by the Central Government under Sub-section (2) of Section 10 of the Act. It reads as follows:

'G. S. R. No. 663, dated the 29th May, 1959 :

In exercise of the powers conferred by Sub-section (2) of Section 10 of the [Companies Act, 1956](#) (1 of 1956), and in supersession of all the notifications issued by the Provincial/State Governments under the proviso to Sub-section (1) of Section 3 of the Indian Companies Act, 1913 (7 of 1913), the Central Government hereby empowers all the District Courts in the Union of India, except the District Courts in the State of Jammu and Kashmir, to exercise the jurisdiction conferred upon the court by the sections hereinafter specified of the said [Companies Act, 1956](#), subject to the condition that, in the case of District Courts in the State of Orissa and in the Union Territory of Himachal Pradesh, such jurisdiction shall be exercisable subject to the orders of the High Court or, as the case may be, the Judicial Commissioner's Court, namely :--.....

(5) Section 141--Rectification by Court of register of charges.....'

4. It is plain from a reading of the notification that except the District Courts in the State of Jammu and Kashmir all the remaining District Courts in India have been empowered by the Central Government to exercise jurisdiction conferred by the specified sections of the Companies Act. In respect of the District Courts in Himachal Pradesh the conferment of jurisdiction is qualified by a reservation. And the reservation is that the jurisdiction will be exercised by those District Courts subject to the orders of the Judicial Commissioner's Court. The orders contemplated here are merely orders which may impose restrictions on the exercise of jurisdiction by the District Courts. The Judicial Commissioner's Court cannot nullify the jurisdiction already conferred by the Central Government upon the District Courts. It may direct how and in what manner the jurisdiction should be exercised. It was not contemplated that the jurisdiction already conferred by the Central Government should be taken away by the Judicial Commissioner's Court. Each District Court in Himachal Pradesh has been conferred jurisdiction under the Companies Act by the Central Government, and even though the Judicial Commissioner's Court or the High Court succeeding it, may have made no orders in respect of the exercise of that jurisdiction, the jurisdiction continues to be exercisable by the District Courts in Himachal Pradesh. I am unable to accept the contention urged on behalf of the petitioner-company that in the absence of any orders by the Judicial Commissioner's Court or the High Courts which followed thereafter in Himachal Pradesh, there is no jurisdiction in the District Courts and that, therefore, jurisdiction belongs to the High Court. In my opinion, the jurisdiction conferred on the court by Section 141 of the [Companies Act, 1956](#), vests in the District Courts in Himachal Pradesh and is exercisable by them.

5. Consequently, the petition is not maintainable in this court and the order made on October 19, 1973, disposing of the petition is without jurisdiction.

6. Accordingly, I recall the order dated October 19, 1973, of this court and direct that the petition be returned to the petitioner for presentation to the proper court.