

## LITIGATIONS

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*His cause was just and his quarrel honorable.*

SHAKESPEARE, Henry V

Some of the legal battles Kalaithanthai fought are worthy of mention.

### 1

In 1968, Sree Meenakshi Mills purchased American cotton for Rs 10 lakhs through a Bombay broker, Narandas Rajaram & Co. The broker's agent had sent the cotton. It was of an inferior quality and was not according to the sample shown at the time of the sale agreement. It was fit only for the production of 40-count yarn. The mill had ordered cotton suitable for 60-count yarn. It was clearly seen from the label on the bales that it was old stock.

In a letter to the broker, Sree Meenakshi Mills pointed this out and refused to accept the cotton. They informed the broker that the cotton was kept in the mills godowns and insured at the broker's cost. In his reply, the broker claimed that the company that had sent the cotton had been in the business for a long time and there was no chance of any fraudulence. Still he agreed to refer the matter to the East India Cotton Association and be bound by their decision. The mill did not agree. It was too serious a matter to be taken to the Association. At most, the Association would recommend a refund of Rs 30 per bale. The dispute was with regard to the fulfilment of the agreement. The point raised by the mill was that there had been a violation of the contract. But the broker took the dispute to the East India Cotton Association.

Kalaithanthai went through the sale agreement and the papers relating to the despatch of the cotton to the mill. He got the legal opinion that as the cotton had not been

sent according to the terms of the agreement, there was no need to accept it. When the broker came to Madurai, Kalaithanthai did not mince his words: “I had ordered high-bred Arabian horses and you have sent me mules. How can I accept them?”

There was a compromise and the price was reduced by Rs 400 per bale. The mill also got the discount allowed by the East India Cotton Association.

## 2

H.M. Mehta and Co, a Bombay company, had supplied textile machinery (spindles) to Sree Meenakshi Mills. There was some dispute about the price. It dragged on for months. H.M. Mehta threatened to go to court.

Kalaithanthai was not upset. He pre-empted the move. There was a reputed firm of solicitors, Mulla and Mulla, in Bombay. One of the lawyers of the firm had been a judge of the Privy Council in London. Kalaithanthai sent all the details of the case to the firm and requested them to take up the case. This was the reply he received:

Messrs H.M. Mehta & Co happen to be our clients. The dispute is between them and you. Without knowing that we are their lawyers, you have sent all the relevant particulars of the case to us. Now that we know all the details of your side of the case, it would not be fair for us to take up the case against you on behalf of our clients. If you are agreeable, we are prepared to talk to our clients and settle the matter in a fair manner. There is no need to go to court.

Kalaithanthai closed with the offer and the dispute was settled. Thereafter, all the Meenakshi Mills cases were handled by Mulla and Mulla.

## 3

There was an interesting sequel to the dispute. Mulla and Mulla sent a bill to Sree Meenakshi Mills for their services in effecting the compromise in the case pertaining to the purchase of machinery. It *was* for a whopping Rs 14000. They had given a breakdown of the fees - fees for giving legal advice, for going through the documents, for preparing affidavits, for making telephone calls and sending telegrams. Kalaithanthai was taken aback. When he pointed out that the fees was on the high side, they said that the bill had been prepared according to the guidelines laid down by the Proto Notary and

Senior Master of the Bombay High Court. He was free to appeal to that officer. They were willing to be bound by the decision of the officer. Kalaithanthai decided to appeal.

Both Kalaithanthai and L.N.S. went to Bombay. It was arranged that L.N.S should go to the office of Mulla and Mulla the next day, proceed to the office of the Pro Notary with one of the partners and have the matter settled. The next day, however, Kalaithanthai asked L.N.S. to go directly to the Pro Notary's office with a lawyer. It was not the custom for plaintiff and respondent to go to the court together. The partner of Mulla and Mulla was cross with the lawyer for appearing against a fellow lawyer on the question of fees. But the bill was reduced by 40% and Kalaithanthai had to pay only Rs 8400. When L.N.S. asked for the new lawyer's bill, he just said that he could pay him whatever he pleased. He jocularly said that if he presented a bill, Kalaithanthai might go to another lawyer against him!

4

Kalaithanthai put to good use his legal knowledge to get out of tight corners. He had been engaged in forward trading in cotton for years, often going to Bombay for the purpose. Once a deal was finalised, an advance was paid and the balance amount, calculated at the prevailing market rate, had to be paid within two or three months. If the payment was not made within a specified date, the broker would send a bill through a bank. The bank had to collect the amount with interest and send it to the broker within 90 days

Once the broker, Thomas Smith & Co, sent a bill to Kalaithanthai. The financial position of the mill was not very good. He had to buy time till the position improved. The bill had been made out in the name of Sree Meenakshi Mills instead of Thiagaraja Chetty & Co, which had purchased the cotton. Kalaithanthai asked Mulla and Mulla to write to the broker that the bill had been wrongly made out and as such it could not be accepted. Mulla and Mulla prepared a detailed one - page reply. Kalaithanthai was not satisfied. He insisted that the letter should not contain more than two sentences. Mulla and Mulla maintained that they had only mentioned the facts and that no harm would

result. If he was not satisfied, he was free to consult another lawyer. Kalaithanthai went to Sri Jamshedjee Ganga, a renowned legal expert. He saw Kalaithanthai's point and drafted a short letter.

Thomas Smith & Co took the letter to Little & Co, a European firm of lawyers, who advised the company that it would be in its interest to aim at a compromise with the writer of such a letter and get whatever was possible, rather than approach the court and risk losing everything. Kalaithanthai had to pay only Rs 5000, instead of Rs 25000, which was the original bill amount.

It should be mentioned that Sir Jamshedji Ganga, who had accepted Kalaithanthai's point about the letter, was a renowned lawyer of Bombay in the thirties and that the great constitutional expert, N.A. Palkhiwala, was his junior.

## 5

Kalaithanthai's great legal battle related to the Yarn Price Control Order passed by the Commissioner of Textiles in 1972. It was a time when the textile business was in the doldrums and all the mills were struggling for their very existence. The Yarn Price Control Order required the mills to sell their yarn at the price fixed by the Commissioner to merchants specified by him. They should not sell their yarn to anybody else. The price fixed was Rs 14 less per bundle than the cost of production.

The mill owners were shocked. The South Indian Mill Owners' Association (SIMA) met at Coimbatore and reviewed the situation. It had been only a few days earlier that the government had taken over 104 mills spread over the country and had started the National Textile Corporation to run the mills. SIMA felt that, in the prevailing circumstances, it would be unwise to oppose the government order, and there was nothing for it but to 'grin and bear it.'

Kalaithanthai did not agree. He filed a case in the Supreme Court. He engaged the services of the legal luminaries, M.C. Setalvad, Daphtari, S.V.Gupte and M.K. Ramamurthy. It was argued on behalf of Kalaithanthai that the price control order aimed

at nothing less than confiscating a person's property and as such was violative of article 19 (1) g of the Constitution, which ensured protection of property right. The order would undermine people's faith in the Constitution.

The case was taken up on the day preceding the summer vacation. The judges accepted Kalaithanthai's argument and stayed the operation of the order in respect of Sree Meenakshi Mills. The mill was free to sell its yarn at the prevailing market price to persons of its choice. The Court was closed for three months and during the period, only important cases could be taken before the vacation judge, Chandrachud.

The Tamil Nadu government opposed the stay. It said that there were over 150 textile mills in the State and the stay order would affect thousands of handloom weavers who bought yarn from the mills. It preferred an appeal at the court of the vacation judge. The Tamil Nadu Advocate-General, Mr Govind Swaminathan, argued that the stay would create a law and order problem in the State as handloom weavers might start an agitation, and asked for its vacation. Messrs J. Ramamurthy and M.K. Ramamurthy appeared on behalf of Kalaithanthai. The judge ruled that, whatever the problems before the government, it could not force the mills to sell their yarn at less than the cost price, which would crush the industry. He also made the stay absolute.

This was a historic case. It came up before a constitution bench, consisting of Justices A.N.Ray, Palekar, T.N. Bhagavathi, V.R. Krishna Iyer and Y.V.Chandrachud. F.S. Nariman argued the case on behalf of the Textile Commissioner. The arguments went on for several days. In the end, the bench reserved its judgment. It was several months before the judgment was given.

Nearly a year had passed since the case had been filed. In the interval, the textile mills made huge profits and amassed enormous wealth. Other mill-owners in Tamil Nadu and elsewhere approached the courts and, with Kalaithanthai's precedent, got exemption for themselves from the operation of the Yarn Price Control Order. Mill-owners, especially from North India, who had followed the case as it was being argued in the Supreme Court, were very grateful to Kalaithanthai for his service to the industry.

The Tamil Nadu government felt humiliated by the stay order and wanted to ‘teach Kalaithanthai a lesson’. It promulgated an Essential Commodities Act, whereby essential items could be moved from one place to another only with the prior permission of the government. Charging Sree Meenakshi Mills with having violated the provisions of the Act, police entered the Mills premises with lorries in the afternoon and took all the bundles of yarn to the Crime Branch.

Kalaithanthai immediately filed a contempt petition against the authorities. He filed a case in the criminal court asking for the release of the confiscated yarn. On the basis of the stay granted by the Supreme Court, the judge ordered the release of the yarn. The officials got in touch with the higher-ups in Madras who instructed them to file an appeal in the Sessions Court and ask for a retrial under a different judge. Even as the case was being argued Sree Meenakshi Mills managed to sell the yarn to merchants and arranged for the bundles to be lifted from the Crime Branch itself. The appeal became infructuous. Two DSPs and the Additional Director of Handlooms who had lifted the yarn from the Mills tendered an unconditional apology to the Supreme Court.

The Tamil Nadu government would not give up. It was blind with rage. It stopped power supply to Sree Meenakshi Mills for several hours every day. Kalaithanthai once again approached the Supreme Court calling for an end to the discrimination against his mills. The Supreme Court sent a telegraphic order to the Tamil Nadu government calling upon it to provide uninterrupted power supply to the Mills against whom cases were pending, as was being done for other mills. The Mills could get continuous power supply only after this order.

Thanks to the stay given by the Supreme Court, all the textile mills minted money. The mill-owners adored Kalaithanthai. The eight months when the yarn price control order had been stayed were a boom period for Indian textile industry.

Kalaithanthai was involved in litigation when he desired to expand one of his educational institutions. He was very particular about the location of his organizations whether they were residences, mills or educational institutions. When Sree Meenakshi Mills was started, there was no electricity in Madurai and the factory had to be run with steam engines. Kalaithanthai felt that the ideal place for the mill would be the area between the Vaigai and the Mariamman tank (the present location of the Thiagarajar College). There were two Palaces then in the area, both belonging to the Setupati Rajas of Ramanathapuram. The Raja's family used to stay in one of them when they visited Madurai. The other smaller mansion served as the residence of the Ramnad district judge.

Kalaithanthai tried to secure the mansions for starting the mills. Raja Muthuramalinga Setupati did not want to sell them. Already, the family had taken steps to sell their Woodlands Palace at Royapettah at the instance of the Court of Wards managing their estates. To sell the Madurai mansions also at the same time would reflect badly on the family. He offered to get the neighbouring land (later, the Pankajam Gardens) from the zamindar of Paalayampatti, who was his relation. Kalaithanthai did not agree. Muhuramalinga Setupati then helped Kalaithanthai to get the land in which Sree Meenakshi Mills is now functioning from Marikar of Mandapam, his friend. This was in 1922.

It so happened that twenty-five years later Kalaithanthai started the Thiagarajar College in the Palace of the Setupatis. The place was too small for a college - only 10.4 acres in all. The University Commission, which recommended the affiliation of the college, said that the college should have 100 acres. Kalaithanthai was now interested in the adjacent Pankajam Gardens. What should have been a simple affair became complicated and he was forced to go to court but in spite of his best efforts could not get the land.

Pankajam Gardens belonged to the zamindar of Paalayampatti. It consisted of nearly 64 acres of land to the west of the Thiagarajar College. Part of it - about 27 acres - had been sold to someone. An Englishman, Fischer, had bought the rest of it. Subban Chettiar, a zamindar from Bodinayakkanur, had bought this land and Konthagai, a village to the east of Madurai for Rs 41250 at an auction. Kalaithanthai offered Rs 41250 plus some specified amount for the land alone. He approached the government for help. The government asked Kalaithanthai to pay Rs 14 lakhs for the entire land of nearly 64 acres. Of this eight lakhs would be paid to the family of Subban Chettiar. Kalaithanthai insisted that he wanted the land not for commercial use, but for educational purposes. The government was bound to get him the adjoining land. Rajaji, who was the Chief Minister then, offered the required land near the airport or in Anuppanadi. Kalaithanthai stuck to his position.

He went to court. Even after ten years, nothing happened. When Dr S. Radhakrishnan was vice-president, he talked to Pandit Jawaharlal Nehru. Kalaithanthai met Nehru and explained his position. Nehru advised him to have the matter sorted out by the State government. He asked the State government too to consider Kalaithanthai's request sympathetically. Kamaraj offered to give the required land on the northern banks of the Vaigai and construct a bridge across the river. Kalaithanthai did not agree. It is a pity that an educational institution suffered because of the obstinacy of the government.