The High Court of Justice Business and Property Courts of England and Wales, under Justice Marcus Smith, upheld the ownership of funds amounting to one million (about thirty five million now) in Hyderabad’s erstwhile Nizam Asaf Jah’s (represented by Government of India) favour. This decision was against Pakistan’s claim of legal ownership of the said funds in 2013.

The commencement of the aged legal dispute can be dated back to India’s partition in 1947, wherein the Nizam had “transferred” the funds to the then, High Commissioner of for London in Pakistan for the purpose of protecting the then princely state of Hyderabad from any invasion by the then India. However, later the Nizam demanded the sum back taking the plea that he had not authorised it. Finally, India claimed the money from the Nat West Bank, United Kingdom, where the funds were kept. But, the Bank denied India’s title over the ownership of the said funds and said that it could only be returned to India, subject to express approval of Pakistan. The above facts gave rise of the dispute, which initially could not be taken in favour of India, as Pakistan claimed its sovereign immunity.

Later, the proceedings were succeeded against Pakistan only after, it had waived its sovereign immunity after the Pakistan government took the legal ownership of the disputed property. The main contention from India’s claimed the money back on two grounds. Firstly, that the money was held on trust and secondly, that since the said transfer was unauthorised, therefore both Pakistan and the Bank should be restrained from any unjust enrichment from the money.

Pakistan and the Bank defended the arguments by contending that the money were meant to compensate Pakistan for its help in facilitating the transportation of weapons and other goods through Pakistan to Hyderabad. Interestingly, Pakistan also raised a defence, questioning the maintainability of jurisdiction of the Court on the ground that the transfer was an act between two States, which means it is governmental in nature, thus making the case non-justiciable. It also claimed that Hyderabad had illegally invaded Pakistan which was in contravention to the Standstill Agreement, the United Nations Charter and the Indian Independence Act of 1947.

The Court held that there is no illegality in claim of the money by India from Pakistan and the Bank and any such contention to the contrary are “analytically irrelevant”.