

Guptas: bank refuses to take our money

The Guptas say they have every right to fly their Bombardier jet around the world as the Canadian bank that financed it refuses to take their money.



Photo: Bombardier Business Aircraft

Export Development Canada (EDC) went to court to ground the jet because the Guptas had allegedly defaulted on repayments, and to stop the family from using it to commit crimes or flee from justice.

The Hawks consider Ajay Gupta a fugitive.

But an aviation newsletter has reported the jet registered in SA as ZS-OAK, which was thought to be missing and hidden from creditors, flew from Dubai to Delhi on Saturday and returned to Dubai on Monday.

ZS-OAK's latest flight took place just before Indian authorities reportedly conducted raids on Gupta properties and offices in Saharanpur on Tuesday morning.

In February, EDC applied to the High Court in Johannesburg for an urgent order to force the Guptas to return the aircraft or face having it deregistered pending the outcome of legal proceedings in the UK.

The case is due to be heard on Friday.

The Civil Aviation Authority said it would not oppose the application.

But the Guptas argue that EDC lent them \$41m to buy the jet despite being aware of the reputational risks involved and it now wanted to seize the plane as a "face-saving exercise", not because the family had defaulted on payments. EDC's complaint that it could not keep tabs on ZS-OAK's movements because its "public tracker" had been disconnected was "of no consequence" because the Guptas' UK lawyers had disclosed the aircraft's location to the bank.

This is contained in opposing papers filed by Gupta executive Ronica Ragavan.

In an affidavit obtained by *Business Day* dated February 27, Ragavan said the Guptas had defaulted only once, in October 2017, because the Bank of Baroda had delayed effecting a repayment. Once the payment was made, the Canadian bank withdrew its termination notice. In December 2017 EDC cancelled the loan and in February went to court to ground the jet.

In its papers, the bank said the Guptas had defaulted on payments "more than a dozen" times between October 2017 and January 2018. The Guptas still owed EDC \$27m.

But in their responding papers the Guptas said that Westdawn was prevented from paying the bank because it had "unlawfully" ended their lease with Stoneriver, a special-purpose vehicle registered in Ireland. As a result, the Guptas were "entitled to continue the enjoyment of the full spectrum of rights granted under the lease agreement".

Westdawn leases the aircraft from Stoneriver, which borrowed \$41m for 80% of the aircraft's purchase price from EDC in April 2015.

The Guptas paid Bombardier a deposit of \$10m for the jet in December 2014 and stand surety for the EDC loan.

The Guptas had offered to exercise their right to end the lease and buy the aircraft, but had not received a response from EDC.

Their offer would be accepted if EDC was "truly interested in their commercial interests, rather than some unspecified political agenda, which they now seem to harbour" against the Guptas, Ragavan said.

Other "contract breaches" EDC cited for cancelling the loan were "minor technical defaults".

These included allegations that Westdawn and other Gupta firms had received corrupt payments from the Estina dairy project and from coal contracts with Eskom.

These presented a "clear risk of criminal, civil and reputational sanctions" for the Guptas, the bank said.

Ragavan appeared in court in connection with the Estina dairy project. She is out on bail.

Source: *Business Day*