

Ownership disputes

London dealer forced to return Souzas

Michael Marks was misled by the Art Loss Register; then he was sued for buying the paintings

LONDON. Aziz Kurtha, an Indian lawyer and art dealer based in London and Dubai, has regained ownership of two works by the late Indian artist Francis Newton Souza, from a London dealer, Michael Marks. Dr Kurtha says the works are worth £350,000 (\$700,000).

Mr Marks says he bought the two paintings, *Head of a Portuguese Navigator*, 1961, and *Chalice with Host*, 1953, in good faith in 2006. He had conducted a check against the Art Loss Register's (ALR) stolen art database and was not alerted that there were doubts about the works' ownership despite the fact that they had been registered with the ALR as missing.

Dr Kurtha, who owns a collection of over 200 works by Souza, said that, at some point in the 1990s, some of these were stolen, either from his London home (which was rented to tenants) or from a Pickfords storage warehouse. He recovered five pieces after they appeared in a Bonhams London sale in 2002, buying them back from the consignors, Mario Demetriou and Mike Baxter (at the time, he says, he could not prove they were stolen and therefore compensated the owners).

The two paintings in the present dispute were registered by Dr Kurtha as missing with the ALR in 2005. A year later Michael Marks says he decided to buy the two works from Mario Demetriou, who is his business partner in a separate venture. Mr Marks, who was then unknown to the ALR, telephoned the organisation to check the provenance of the paintings and paid



One of the disputed works: F.N. Souza's *Head of a Portuguese Navigator*, 1961

the ALR search fee with a credit card. Julian Radcliffe, ALR's chairman, admitted in court that he deliberately misled Mr Marks by telling him there was no claim on the Souzas. Mr Radcliffe said that it was sometimes necessary to mislead people who make enquiries about the database in order to establish identity and bank details, which he did in this case; Dr Kurtha then took Mr Marks to court to recover the paintings.

Speaking to *The Art Newspaper*, Milton Silverman, the solicitor for Mr Marks, described this as a "potentially nightmare scenario for a dealer. He could buy works of art, certain in his own mind that they are free of any problems, only to find himself landed with a dispute on their title." Mr Radcliffe told us that the circumstances were exceptional in that Mr Marks was unknown to them. ALR would not act in the same

way with a known dealer, collector or auction house, he says.

Mr Marks is not appealing the ruling. Costs had yet to be determined at the time of going to press but are likely to be in six figures, and must be met by Mr Marks.

Meanwhile in the US, Dr Kurtha is himself being sued in a similar dispute. Sunil Kamat, an American collector, claims he is the rightful owner of another work by Souza, *Winter Trees in New York*, 1971, which he consigned for sale to Sotheby's in 2004.

It was withdrawn from auction after Dr Kurtha alleged it was another of his works; but Mr Kamat says he bought it in good faith. That case has yet to be resolved.

Dr Kurtha has been buying work by Souza since 1975, when his works were inexpensive, often directly from the artist. He is also an acknowledged expert on Souza and published a book on him in 2006.

Dr Kurtha has made headlines before. In 1986 he identified the novelist Jeffrey (now Lord) Archer, at the time deputy chairman of Britain's governing Conservative Party, as a client of a prostitute, Monica Coghlan. Dr Kurtha sold the story to the British Sunday tabloid the *News of the World*, and was subpoenaed as a witness when Lord Archer brought a successful lawsuit for libel against another newspaper. Fourteen years later it emerged that Lord Archer's alibi had been falsified, and he was jailed for four years for perjury.

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