
(2014) 07 P&H CK 0251
In the Punjab And Haryana At Chandigarh
Case No : CR No. 7933 of 2013

Gitanjali Gems Ltd.

APPELLANT

Vs

Aerens Goldsouk International Ltd.

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 227

Citation : (2014) 07 P&H CK 0251

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Sanjay Kumar, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—This is a petition under Article 227 of the Constitution of India impugning the order dated 10.9.2013 passed by the learned Addl. District Judge, Gurgaon vide which an application under Order 1 Rule 10 CPC preferred by the plaintiff/respondent has been allowed.

2. The issue raised by the respondent before the Court of learned Addl. District Judge was under the Trade Mark Act and a multifarious prayer had been made in the suit wherein initially the plaintiff/respondent impleaded only M/s. Gitanjali Gems Ltd. as the defendant through its Managing Director. The concern M/s. Gitanjali Gems Limited appeared and filed its written statement and one of the pleas raised was that M/s. Gitanjali Gems Limited was a subsidiary of M/s. Gitanjali Lifestyle Limited. This prompted the petitioner to make an application seeking impleadment of the present petitioner i.e. M/s. Gitanjali Lifestyle Limited as a necessary party which has been allowed and is now the cause of grievance to the petitioner.

3. Learned counsel for the petitioner contends with reference to the provisions of Order 1 Rule 10 CPC that the court could have considered the application under

the said provisions if the error in omitting a party from the array of defendants was bona fide which apparently is lacking as the petitioner is conscious of the aforesaid fact of the defendant Gitanjali Gems Limited being a subsidiary of Gitanjali Lifestyle Limited and thus there was no occasion for the respondent to have omitted the name of the petitioner from the array of defendants.

4. It is thus sought to be contended that the impugned order is erroneous and the plaintiff/respondent has in fact tried to take advantage of its own wrong.

5. I have duly considered the submissions made before this Court and am of the considered view that the order of the learned trial court cannot be faulted with. Even if it is assumed that the plaintiff/respondent was aware of the fact that the petitioner i.e. Gitanjali Lifestyle was the principal defendant instead of Gitanjali Gems Limited, which is its subsidiary, yet the suit being at its threshold would have robbed the present petitioner of any prejudice more particularly when it is not denied that M/s. Gitanjali Gems Limited, the defendant impleaded in the first instance, is a subsidiary of the petitioner company. The rules of substantial justice would enable the court to implead all persons who are necessary to the controversy and the matter should not be left to the vagaries of technicalities to defeat the real intent and content of the proceedings initiated before the court. I am further of the view that the present petition is totally frivolous and indicative of an unwarranted litigation pursued by the petitioner.

6. The petition is dismissed.