

(2006) 02 DEL CK 0131
In the Delhi High Court
Case No : CS (OS) No. 1958 of 2001

H.K. Goods Transport Pvt. Ltd. and Others	APPELLANT
Vs	
Ramesh Chander Bammi and Others	RESPONDENT

Date of Decision : 28-02-2006

Acts Referred:

Citation : (2006) 02 DEL CK 0131

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : Non, for the Appellant; None, for the Respondent

Judgement

Sanjay Kishan Kaul, J.—plaintiff No. 1 is a company incorporated and registered under the Companies Act, 1956 stated to be doing the business of transportation of goods. plaintiff No. 2 is the father of plaintiff No. 4 and defendant No. 1. Defendants No. 2 and 3 are the sons of defendant No. 1. The family tree of the parties is as under:

Harbans Lal Bammi

Ramesh Chander Bammi

Subhash Chander Bammi

Chander Prakash Bammi

Charan Bammi

Gaurav Bammi

Anupama Saini

Tanuja Bammi

Nikhil Bammi

Megha Bammi

2. The suit has been filed seeking a declaration that the defendants have no right to interfere with the business of plaintiff No. 1 company and for permanent injunction from interfering with the business of the said plaintiff No. 1 company. An injunction is also sought against the defendants from writing defamatory letters in respect of the plaintiffs and the plaintiffs have claimed damages of Rs. 20 lakhs on that account.

3. The defendants were served, but chose not to appear and were proceeded ex-parte. The matter was passed over at the request of plaintiffs' counsel but no one appeared on second call or even after lunch recess.

4. The plaintiffs were directed to file the affidavits of evidence. The plaintiffs have filed the affidavits of plaintiffs No. 3 and 4 in evidence.

5. It is stated in the plaint that plaintiff No. 2 had come to India in 1947 and thereafter established his own business in transportation of goods. Initially, the business was under the name and style of M/s. Pindi Goods Transport Co., a proprietorship concern, but subsequently plaintiff No. 1 was incorporated and registered as a limited company. plaintiff No. 4 and defendant No. 1 are stated to have been inducted into the business and they continued to work together until July, 1999.

6. There were apparently disputes between the family in respect of the business and complaints were filed inter-se the plaintiffs and defendant No. 1. The said defendant is stated to have written communications to banks and other authorities to get the accounts of plaintiff No. 1 company frozen, but the same were de-freeze in pursuance to the Orders of the Division Bench. Such communications are stated to be an interference in the business of the plaintiffs.

7. PW-1, Nikhil Bammi, has substantiated and stated what is stated in the plaint. The Order passed in Criminal Writ Petition No. 5461/2001 directing de-freezing of the account has been proved as Ex. PW-1/2. The witness has also affirmed that no funds have been diverted from plaintiff No. 1 company.

8. The letters written by the defendants have been proved as Ex. PW-1/3 and Ex. PW-1/4. The said letters have alleged forgery, fraud and misappropriation of the funds of plaintiff No. 1 company.

9. PW-2, Chander Prakash Bammi, has proved the copy of the Order as Ex. PW-2/2 of the Metropolitan Magistrate refusing to frame charges. Reference has been made to the communications addressed by the defendants, which are Ex. PW-2/4, Ex. PW- 2/4A and Ex. PW-2/10. The witness also alleges that the defendants have caused financial loss to plaintiff No. 1 company for which complaints have been filed.

10. In view of the aforesaid evidence led by the plaintiffs, it is apparent that due to the disputes between the family members being plaintiffs No. 2 to 4 and the defendants, the defendants have been writing damaging letters to various authorities about plaintiff No. 1 company without establishing their rights in the

running of plaintiff No. 1 company. If the defendants are aggrieved by the functioning of plaintiff No. 1 and they have any locus standi in respect thereof, the appropriate remedy is by initiating legal proceedings in respect thereof. Similarly for any claims, which the defendants may have, the remedy would also be the same. The plaintiffs have not led any evidence to substantiate the quantum of damages and, thus, the relief insofar as prayer (d) is concerned cannot be granted to the plaintiffs.

11. A decree is, thus, passed in favor of the plaintiffs and against the defendants restraining the defendants or anyone on their behalf from writing any defamatory letters in respect of the plaintiffs or from interfering with the business of plaintiff No. 1 company except in accordance with law as per the legal proceedings. The plaintiffs shall also be entitled to costs.

12. Decree-sheet be drawn up accordingly.