
(2022) 11 DEL CK 0063

In the Delhi High Court

Case No : First Appeal From Order (OS) (COMM) No. 70 Of 2022, Civil Miscellaneous No. 14345, 14347, 14348 Of 2022

H.S. Sahni

APPELLANT

Vs

Mukul Singhal & Ors

RESPONDENT

Date of Decision : 11-11-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Section 10

Citation : (2022) 11 DEL CK 0063

Hon'ble Judges : Vibhu Bakhru, J; Amit Mahajan, J

Bench : Division Bench

Advocate : S.K. Bansal, Pankaj Kumar, Ajay Amitabh Suman, Saif Khan, Achuthan Sreekumar, Rohil Bansal

Final Decision : Dismissed

Judgement

Vibhu Bakhru, J

1. The appellant has filed the present appeal impugning a judgment dated 17.01.2022 (hereafter 'the impugned judgment') passed by the learned Single Judge in C.S. (COMM) no. 31/2021. In terms of the impugned judgment, the learned Single Judge stayed the suit preferred by the appellant/plaintiff in terms of Section 10 of the Code of Civil Procedure (hereafter 'the CPC').

2. The learned Single Judge found that the subject matter of both the suits, that is, CS (COMM) 146/2019 and CS (COMM) 31/2021, "is exactly the same". The learned Single Judge observed that "The concurrent trials will lead not only to the multiplicity of litigation but also to the possibility of contrary decisions where in one suit, one party is allowed to use its trademarks and in the second suit, the same party is enjoined from using the same." and, accordingly, stayed the suit filed before the learned Single Judge.

3. The learned Single Judge further declined to pass any injunction against the respondent/defendant, as the learned Commercial Court in CS (COMM) 146/2019

had already granted interim orders against which both the parties had filed their respective appeals [being FAO (COMM) 88/2021 and FAO (COMM) 89/2021].

4. By a common order dated 10.11.2022, the appeal filed by H.S. Sahni [FAO (COMM) 88/2021] was rejected and the appeal filed by Mukul Singhal and M/s M.G. Cables (India) [FAO (COMM) 89-2021] was allowed by this Court.

5. Indisputably, the subject controversy involved in the commercial suits filed by the contesting parties [CS (COMM) 146/2019] is similar to the subject disputes involved in the suit preferred by the appellant [CS (COMM) 31/2021].

6. In view of the above, this Court finds no infirmity with the decision of the learned Single Judge, staying further proceedings in relation to the suit instituted by the appellant [CS (COMM) 31/2021] pending the decision in CS (COMM) 146/2019, which in turn is required to be stayed considering that the parties have filed applications for rectification of the registered marks.

7. The question whether the appellant is entitled to any interim relief is also squarely covered by the order dated 10.11.2022 passed by this Court in FAO (COMM) 88/2021 and FAO (COMM) 89/2021.

8. The appeal is, accordingly, dismissed. All pending applications are also disposed of.