

(2018) 01 DEL CK 0383

In the Delhi High Court

Case No : First Appeal From Order (OS) (COMM) No. 214 Of 2017, Civil
Miscellaneous No. 44823 Of 2017

Jain Riceland Pvt Ltd

APPELLANT

Vs

Sagar Overseas

RESPONDENT

Date of Decision : 17-01-2018

Acts Referred:

Section 151, Order 43(1)(r), Order 39 Rule 1, Order 39 Rule 4
Commercial Courts, Commercial Division and Commercial Appellate Division of High
Courts Act, 2015 — Section 13(1)

Citation : (2018) 01 DEL CK 0383

Hon'ble Judges : G.S.Sistani, J; Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : Sandeep Sethi, Mohan Vidhani, Rahul Vidhani, Ashish Singh,
Bhupender Jain, Hitender Kapur, Sagar Chawla, Varun Modi

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

1. This is an appeal filed under Section 13 (1) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 read with Order 43 (1) (r) and Section 151 of the Code of Civil Procedure (CPC) for setting aside the order dated 30.10.2017 by which I.A.7978/2016 filed under Order 39 Rules 1 and 2 of CPC has been dismissed and I.A.573/2017 filed under Order 39 Rule 4 of CPC has been allowed.

2. The plaintiff (appellant herein) has filed a suit seeking permanent injunction against the defendant (respondent herein). In this appeal notice was issued on 11.12.2017. The respondent/defendant is represented through counsel. Additionally, Mr.Bhupender Jain, Director of the appellant/plaintiff and Mr.Varun Modi, partner of the respondent/defendant are present in Court. During the course of hearing, the parties showed their inclination to resolve the matter amicably. The matter was passed over once to enable the parties to discuss the

modalities and terms of settlement. At the second call, we are informed that the parties have arrived at an amicable settlement. Mr.Varun Modi, partner of the respondent company submits that he is competent to enter into a settlement with the appellant. Mr.Bhupuender Jain, Director of the appellant company submits that he is also duly authorised to enter into a settlement with the respondent. A copy of the resolution has been handed over in Court and taken on record. Parties have agreed that the respondent would not use the impugned trademark 'SWAAD'. Counsel for the respondent further submits that he would have no objection if the suit filed by the plaintiff is decreed subject to the condition that the plaintiff gives up its reliefs with regard to cost, rendition of account etc.

3. Accordingly, the present appeal is allowed. The impugned order dated 30.10.2017 is set aside. In view of the settlement arrived at between the parties, the suit is decreed in favour of the plaintiff/appellant and against the defendant/respondent, in terms of Prayer 33 (a) and 33 (b), the appellant/plaintiff gives up the reliefs of Prayer 33 (d) and 33 (e). As far as delivery and destruction of unfinished material including its packing, blocks, designs, labels, display boards, trade literatures and goods etc. is concerned, as agreed, the same would be collected and destroyed by the plaintiff. Since the matter is resolved through the mediation of the Court, the plaintiff/appellant would be entitled to refund of the court fees, for which a necessary certificate be issued to the plaintiff/appellant.

4. The Court appreciates the efforts put in by the parties and their counsels for early resolution of the matter.

C.M.44823/2017 (stay)

5. In view of the settlement arrived at between the parties, the application stands disposed of.