
(2022) 02 DEL CK 0059

In the Delhi High Court

Case No : First Appeal From Order (OS) (COMM) no. 153 Of 2020, Civil
Miscellaneous Application No. 30023-30025, 30354-30355 Of 2020

Mittal Electronics

APPELLANT

Vs

Sujata Home Appliances Private Limited & Ors

RESPONDENT

Date of Decision : 09-02-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 4

Citation : (2022) 02 DEL CK 0059

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Jayant Mehta, Manish Biala, Mohan Vidhani, Raghavendra M. Bajaj,
Devesh Ratan, Ashutosh Upadhyaya, Anisha Gupta, J.Sai.Deepak, Meenakshi
Ogra, Vikram Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

Â The hearing has been done by way of video conferencing.

1. Present appeal has been filed challenging the order dated 9th September, 2020 passed by learned Single Judge disposing of I.A. No. 1751/2020 filed

under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (in short, â??CPCâ??) and I.A. No. 4098/2020 filed under Order XXXIX

Rule 4 of CPC in CS (Comm) No. 60/2020.

2. After some arguments, learned senior counsel for the appellant-plaintiff states that the appellant would be satisfied in the event, this Court were to

direct the learned Single Judge to expedite the disposal of the suit i.e. CS (Comm) No. 60/2020) and also direct the respondents-defendants to

maintain accounts with regard to goods manufactured and sold by them bearing

the mark SUJATA.

3. Learned senior counsel for the appellant-plaintiff also states that learned Single Judge has erroneously presumed and concluded that there had been

suppression and/or concealment of material facts in the plaint on the part of the appellant-plaintiff.

4. Learned counsel for the respondents-defendants states that the respondents-defendants have no objection to the hearing of the suit being expedited

as well as if a direction is issued to the respondents-defendants to maintain accounts with regard to the goods manufactured and sold bearing the mark

SUJATA. He, however, states that the finding of the learned Single Judge with regard to the suppression and/or concealment by the appellant-plaintiff

was justified.

5. We have heard the learned counsel for the parties at some length. We are of the view that at this stage, in the facts of the present case, the learned

Single Judge could not have finally concluded that the appellant-plaintiff had concealed material facts and indulged in clever drafting. The said

conclusive findings could have been reached only after a full trial. Consequently, the issue of suppression and/or concealment is left open to be

decided after a full trial by the learned Single Judge.

6. As agreed, the present appeal and applications are disposed of with a direction to the learned Single Judge to expedite the hearing of the suit i.e. CS

(Comm) No. 60/2020. The respondents-defendants are also directed to maintain and file books of accounts quarterly with regard to the goods

manufactured and sold by them bearing the mark 'SUJATA' till the disposal of the suit.