
(2000) 10 DEL CK 0055

In the Delhi High Court

Case No : S. No. 2316 of 2000 and I.A. No's. 10871 and 10872 of 2000

Preeti Gupta and Others

APPELLANT

Vs

Rajendra Prahladkar and Another

RESPONDENT

Date of Decision : 18-10-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (2002) 24 PTC 64

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Rajiv Talwar and Sanjay Sarin, for the Appellant;

Judgement

Vikramajit Sen, J.

S. No. 2316/2000

1. Let the plaint be registered.

2. Issue summons to Defendants both by ordinary process as well as registered A.D. post, on plaintiff's filing process fee and registered A.D. covers, returnable by 19th February, 2001.

I.A. No. 10871/2000

3. Notice for the date fixed.

4. Learned counsel for the plaintiffs has drawn my attention to the fact that the design of the picture photo frames of the plaintiff has been duly registered. The certificates of these photo frames are available on page Nos. 1 to 49 of the documents. Learned counsel further draws attention to the photographs on page No. 60 which photographs, he states that, were taken with great difficulty because of the obstruction by the Defendants. It is submitted that the photo frames shown on these pages are clear copies/imitation of the plaintiffs registered designs. It is further stated that Defendant No. 2 was an employee of

the plaintiff and in support of this contention learned counsel has relied on the photograph contained on page No. 58 and the salary slip on page 62. It is alleged that these offending photo frames were on exhibition by the Defendants at the Indian Handicrafts and Gifts Exhibition which was current from 13th to 17th October, 2000.

5. I am satisfied that a prima facie case has been made out for the issuance of ex parte injunction prayed for. The balance of convenience is in favor of the plaintiffs. If only notice is issued in the first instance, irreparable loss and injury is likely to be caused to the plaintiff's. Accordingly till the next date of hearing the Defendants, their servants, agents employees, stockists are enjoined from manufacturing, marketing, selling or exporting picture/photo frames which infringes the plaintiffs' copyrights comprised in the said design duly registered in the name of plaintiffs and as set out in paragraph 5 of the plaint and copies thereof filed on pages 1 to 9 of the plaintiffs List of Documents ; and are also restrained from in any manner using, displaying, trading, distributing any picture photo frames which are similar, identical to or colourable imitation of the plaintiffs said picture photo frames duly registered in the name of plaintiff and as set out in paragraph 5 of the plaint and filed at pages 1 to 19 of the plaintiffs documents.

6. Compliance of Order XXXIX Rule 3 CPC be made within three days.

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7. I have already granted an ex parte ad-interim injunction against the Defendants who, prima facie, are imitating the plaintiffs' registered designs. I am satisfied that a Local Commissioner should be appointed so that inventory of the goods can be prepared. Accordingly I appoint Mr. Rajender Kumar Verma, Advocate, Tis Hazari, Chamber No. 7, W. Wing, Delhi, Phone Nos. 3911230(O), 7418758(R). He is directed to visit Defendant's office At 187-A,; Sant Nagar, Sai Sadan, East of Kailash, New Delhi-110065. He is directed to inventory the photo frames that may be lying there and take photographs thereof. He shall be paid a fee of Rs. 15,000/-. The Local Commissioner is also entitled to seek police assistance in case the Defendants obstruct in the execution of the Commission. Report be filed within seven days.

Dasti.