

(2003) 02 DEL CK 0068

In the Delhi High Court

Case No : IA 4088 of 1999 in S. No. 858 of 1999 and is of 2003 in S. No. 301 of 2003

Punjab Tractors Limited

APPELLANT

Vs

International Tractors Limited and Others

RESPONDENT

Date of Decision : 28-02-2003

Acts Referred:

Citation : (2003) 67 DRJ 374 : (2003) 26 PTC 341

Hon'ble Judges : Jiwan Dass Kapoor, J

Bench : Single Bench

Advocate : Kapil Sibal and Rajiv Nayyar, M.G. Ramchandran, Pratibha M. Singh, Atishi Dipankar and Anubha, for the Appellant; Sudhir Chandra Agarwala Pravin Anand, Sai Krishna Rajagopal and Ameet Dutta for Defendants 1 to 3 and V.P. Singh and Anant Kumar, for Defendant No. 4, for the Respondent

Judgement

J.D. Kapoor, J.—This is an application moved by the plaintiff under Order 39 Rules 1 & 2, CPC for interim injunction for restraining the defendants from using the drawings of the plaintiff relating to manufacture of components in respect of tractors of 35 to 60 HP. The drawings have been filed in the aforesaid suit. Similar application has been moved by the defendant in S. No. 301/2003 restraining the plaintiff from using the drawings adopted by it which also relate to the manufacture of parts of tractors of 35 to 60 horse power. Mr. Kapil Sibal, learned senior counsel for the plaintiff-Punjab Tractors Limited (in short PTL) has stated that PTL has not at any time used the drawings of CMERI/MERADO, save as those drawings related to 20 HP tractors, the proprietorship of which vested in NRDC and in respect of which the license to use was given to PTL in accordance with the agreements dated 31st July, 1972 and 2nd August, 1972. However, this claim of Mr. Sibal has been disputed by Mr. Sudhir Chandra Agarwala, learned senior counsel for defendant-International Tractors Limited (in short ITL) as according to him the aforesaid claim of the plaintiff is not correct and can be ascertained only during trial by way of evidence.

2. Without commenting upon the contentions of learned counsel for the parties and without prejudice to their rights and contentions in the pleadings, I find that following interim order in both the suits would satisfy both the parties in the given facts and circumstances of the case :-

(i) PTL will be entitled to manufacture tractors on the basis of the drawings developed by PTL. PTL will not use any of the drawings of CMERI/MERADO, save as the pre-1972 drawings for 20 HP tractors, the proprietorship of which vests in NRDC.

(ii) ITL will be entitled to manufacture tractors on the basis of the drawings of CMERI/NRDC, ITL shall not use any of the drawings of PTL.

(iii) The above shall be binding on the parties till decisions in Suits 858/1999 and 301/2003 pending before the Court. Both I.As stand disposed of.

I.As 6793/2001 & 6096/2002

Learned counsel for the defendants does not press. is 6793/2001 and confines to is 6096/2002 only. Learned counsel for the plaintiff has no objection if this application being is 6096/2002 is Learned counsel for the defendants does not press is 6793/2001 and confines to is 6096/2002 only. Learned counsel for the plaintiff has no objection if this application being is 6096/2002 is allowed. Let replication be filed within two weeks.

Both. I.As stand disposed of.

is 5237/2001

This is an application for impleadment of NRDC on the premise that the claim of the plaintiff that it has invented the drawings being used by it for the manufacture of parts of tractors of 35 HP is false as these drawings were developed and devised by NRDC and CMERI in respect of which licenses were granted to the defendants by the aforesaid organisations. However, this is hardly a ground for impleadment of a party as the foundation of Order 1 Rule 10, CPC is that until and unless issues are such which cannot be effectively or completely adjudicated in the absence of a party that party shall not be arrayed as a plaintiff or defendant. The fact in question can be proved by way of evidence by summoning the officials of these organisations and recording their evidence. Application has no merit and is dismissed. is is disposed of.

IA 8974/2001

This is the most innocuous application seeking permission to place on record the affidavit of an official of plaintiff company namely Mr. G.S. Rihal on record. Affidavit of Mr. G.S. Rihal shall be treated as affidavit filed by way of evidence in examination in chief. With this order, is is disposed of.

S. No. 858/1999

List on 7th April, 2003 for framing of issues.