

(2018) 04 DEL CK 0237

In the Delhi High Court

Case No : ?REVIEW PETITION--6 of 2018

TRAVELLERS EXCHANGE CORPORATION LIMITED & ORS

APPELLANT

Vs

CELEBRITIES MANAGEMENT PRIVATE LIMITED

RESPONDENT

Date of Decision : 25-04-2018

Acts Referred:

Code of Civil Procedure, 1908 — Order 7 Rule 10, Order 10 Rule 1, Order 7 Rule 17, Order 11 Rule 1

Citation : (2018) 04 DEL CK 0237

Hon'ble Judges : S.P.GARG

Bench : Single Bench

Advocate : Sidhant Goel, Bhardwaj Jaishankar, Abhishek Puri, V. Siddharth

Final Decision : Dismissed

Judgement

S.P.GARG, J. (Oral)

Review Petition 62/2018

1. The defendant / applicant seeks review of the order dated 07.12.2017 by which IA No.12078/2016 [u/O XI R-1(5) CPC] and IA Nos.5793/2016

(u/O VII R-10 CPC and 8144/2016 (u/O VI R-17 CPC) were dealt with. The review petition is contested by the plaintiffs / non-applicants.

2. I have heard the learned counsel for the parties and have examined the file. On 06.09.2017, the case was received on transfer and matter was

listed for disposal of all pending IAs for 09.11.2017. On that day, after hearing arguments in IA Nos.5793/2016 (u/O VII R10 CPC), 8144/2016 (u/O

VI R-17 CPC) and 12078/2016 [u/O XI R1(5) CPC], the matter was notified for orders on 22.11.2017. On that day, it was renotified for

07.12.2017. On 07.12.2017, all the above IAs were dealt with.

3.Contention of the learned counsel for the defendant is that arguments were addressed only in IA No.5793/2016 (u/O VII R10 CPC).Â It was

further urged that learned counsel for the plaintiffs had orally submitted that he would not press IA No. 8144/2016 (u/O VI R-17 CPC) till disposal of

IA No.5793/2016 (u/O VII R-10 CPC).

4.In response, the plaintiffs have denied the assertions of the defendant and stated that arguments on all these applications were heard and there is no

reason to review the order in question.Â The defendant cannot be permitted to reagitate the issues or to file appeal in the guise of a review

petition.Â

5.Indisputably, number of IAs including IA Nos. 1110/2016 (u/O XXXIX R-1 & 2 CPC) and 1152/17 (u/S 124 of the Trade Marks Act) were pending

disposal on 09.11.2017.Â With the consent of the parties, however, arguments only in the three IAs referred above were heard and the matter was

listed for orders.Â Arguments in the other IA Nos. 1110/2016 (u/O XXXIX R-1 & 2 CPC) and 1152/17 (u/S 124 of the Trade Marks Act) were not

heard that day.

6.The order-sheets are very clear and specific.Â It is specifically noted in the order-sheet dated 09.11.2017 that arguments were heard on the above

referred IAs. Â These IAs came to be disposed of by the order under review.Â Â

7.This Court finds no valid reasons to review the order as nothing is on record to infer if arguments were not heard in IA No. 8144/2016 (u/O VI R-17

CPC) or the plaintiffsâ?? counsel had submitted not to address arguments till the disposal of the IA No.5793/2016 (u/O VII R-10 CPC).

8.All the relevant contentions of the parties have been taken into consideration in order under review.Â Relying upon a recent judgment

â??Subhashini Malik vs. S.K.Gandhi & Ors.â?? [CS(OS) No.1416/2009] of Full Bench of this Court, it was noted that an application under Order

VII Rule 10 CPC moved for amendment of a plaint to bring the suit within the pecuniary jurisdiction of this Court can be considered.Â

9.I remember that at the time of pronouncement of the order under review it was specifically enquired by the learned counsel for the defendant if IA

No.5793/2016 (u/O VII R-10 CPC) has also been decided.Â It was specifically informed to him that IA No.5793/2016 (u/O VII R-10 CPC) has

been kept pending to be listed for disposal before the Roster Bench.

10. Contention of the defendant that the application under Order VII R-10 CPC was to be decided first before considering the application VI R-17

CPC is devoid of merit. If this plea is considered, return of the plaint order (if any) would have rendered the amendment application infructuous.

Nevertheless both these IAs along with IA No.12078/2017 were heard together. This Court was of the view that proposed amendment was

necessary to decide the application moved by the defendant for return of the plaint. It was specifically noted in the order that IA No.5793/2016

(u/O VII R-10 CPC) for return of plaint would be considered on merits after the plaintiffs were permitted to amend the plaint incorporating the

additional facts in para (33) of the plaint by the Roster Bench.

11. The review petition is unmerited and is dismissed.

CS (COMM) 51/2016 & IA Nos.1110/2016 (u/O 39 R-1 & 2 CPC),

5793/2016 (u/O 7 R-10 CPC), 1152/17 (u/S 124 of the Trade Marks Act)

List before Roster Bench for the date fixed i.e. 2nd August, 2018.