

Ravissant Pvt. Ltd. Vs. D.F. Export S.A. (Formerly Known as Franklin Export S.A.)

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Court : Delhi

Decided On : Apr-23-2008

Reported in : 2008(38)PTC222(Del)

Judge : S. Ravindra Bhat, J.

Acts : [Companies Act, 1956](#); [Specific Relief Act, 1963](#) - Sections 14, 14(1), 34, 41, 42 and 77A; [Constitution of India](#) - Article 16

Appeal No. : CS (OS) 1114/2004

Appellant : Ravissant Pvt. Ltd.

Respondent : D.F. Export S.A. (Formerly Known as Franklin Export S.A.)

Advocate for Def. : None

Advocate for Pet/Ap. : Alpana Poddar, Adv

Judgement :

S. Ravindra Bhat, J.

1. The plaintiff is a private limited company registered under provisions of the [Companies Act, 1956](#), having its office at 24, Nehru Place, New Delhi 110 019 and

is, inter alia, involved in the business of running Lifestyle Brand Stores by the name of 'Ravissant' in India as well as abroad. The Defendant is a Company registered under the laws of France registered in the Companies Register for Paris and is inter alias engaged in the business of hair styling salons. The original name of the Defendant was Franklin Export S.A.; it was later changed to D.F. Export S.A.

2. It is averred in the suit that on 1.06.2000 a Franchisee Agreement was entered between the Plaintiff and the Defendant for running an exclusive ladies' luxury hair dressing salon at New Delhi under the brand name of 'Jacques Dessange', the defendant's trade name. The agreement was for an initial period of four years; ending on 31.12.2004, but subject to further renewal. There was no Jacques Dessange Salon in India prior to the venture. It is alleged that the plaintiff set up a ladies' luxury hair dressing salon at 50-51, Community Centre, New Friends Colony, New Delhi-110065. Later, on 1-7-2002, another, similar Franchisee Agreement was entered between the parties, for establishment and running of a ladies' luxury hair dressing salon at Mumbai. That agreement provided for the end date to be 31.12.2006. According to its averments, the Plaintiff set up a ladies' luxury hair dressing salon at Taj Mahal Hotel, Apollo Bunder, Mumbai.

3. The plaint avers that in May, 2003, the Plaintiff expressed the desire to the Defendant for the possibilities of opening Jacques Dessange Salons in the other cities of India and, requested the Defendant for rights for sub-franchise. The plaintiff further alleges that the Defendant at once accepted the said proposal and informed it of having a Master Franchisee Contract for the said purpose, which was also to include the existing Jacques Dessange Salons managed by the Plaintiff. The Defendant in fact forwarded a draft of the Master Franchisee Contract to the Plaintiff under their mail dated 28.5.2003. The Plaintiff sought for confirmation with respect to the said salons from the Defendant under their letter dated 24.06.2003. The plaintiff alleges that the Defendant, by letter of 3.07.2003, confirmed and approved about signing a Master Franchisee Contract opening of the said additional salons as suggested by the Plaintiff, with it. The plaintiff avers to discussion in this regard between parties, where the Defendant again reaffirmed its intention of including the existing Jacques Dessange salons at Delhi and

Mumbai as the flagships and future salons as sub-franchisee under the Master Franchisee Contract. It is alleged that the Defendant had unequivocally, by letter of 19.11.2003, showed appreciation on the development of Jacques Dessange in India.

4. The plaint averments advert to defendants' letter of 13.02.2004, evincing the intention of binding itself by a Master Franchisee Contract. This intention was further reaffirmed by the Defendant in the letters of 30.3.2004 and 8.4.2004. The Defendant also approved the opening of the new Jacques Dessange Salons by the Plaintiff at Delhi and Mumbai. The Plaintiff, allegedly hired one Ms. Martin Fuzeau, a trainer from Jacques Dessange, Paris from February 15, 2004 for the purpose of training the staff, which the Plaintiff had hired for the said additional Jacques Dessange Salon which was to open in Mumbai. The plaintiff, however in the interest of Jacques Dessange brand, decided to close its earlier Jacques Dessange salon which was being operated from Taj Mahal Hotel. This was informed to the defendant through letters dated 19.5.2004 and 2.6.2004. The Defendant, through its letter dated 14.06.2004, unequivocally accepted and endorsed the decision. It is alleged that the Defendant by the said letter, even on being informed of the closure of the salon at Taj Mahal Hotel, indicated that the contract with the Plaintiff was still valid.

5. The plaintiff adverts to the Defendant in a series of correspondence, indicating continuation and existence of the Franchisee Agreement entered with the Plaintiff for the Mumbai Salon. This position continued, even after the Plaintiff through the letter dated 6.7.2004 confirmed that it had ceased the operation of their salon at Taj Mahal Hotel from 30.06.2004. In these circumstances, the plaintiff, through mail dated 5.7.2004 informed the Defendant about the proposal of opening a new Jacques Dessange Salon in the new Ravissant Store in Mumbai. The Defendant, on being informed of the same, not only approved of the said decision, but in fact informed the Plaintiff that they should use Jacques Dessange interiors for the said new Salon, and sent the necessary catalogue for the said purpose. In these circumstances, the plaintiff alleges that it started the renovation work in the store. It claims to have incurred cost of Rs. 75 lakhs towards such renovation work and Rs. 20 lakhs towards architect's fees. The Plaintiff also claims that it has to pay a

rental of over Rs. 4 lakhs per month for the premises and that it had already cost over Rs. 18 lakhs on account of salaries of staff, allowances, cost of hiring Ms. Martine Fuzeau, including her travel and accommodation, towards training staff for the said Mumbai Salon. The Plaintiffs also avers to have entered into a two year irrevocable contract with the said staff and engaged Mr. Josef Fluck, a well known architect in Germany since July, 2004 for coordinating with Simon and Salvatore, Architects, to finalize the layouts in the said new salon.

6. On 19.7.2004, the defendant informed the Plaintiff of their decision to cancel the Franchisee Agreement with respect to the Delhi Salon on its expiry date, i.e. 31.12.2004. It however, also evinced the intention to continue the relationship with the Plaintiff in respect of the Delhi Salon on modified terms and conditions, which were agreed to by the Plaintiff by the letter dated 10.8.2004. The Plaintiff also informed the Defendant of starting a new Salon in Delhi from B-51, Greater Kailash, New Delhi-110 048 and at Mumbai from New India Centre. The Defendant by its letter dated 17.8.2004 confirmed to the Plaintiff about its intention to discuss the future of the Delhi Salon Franchisee Agreement, post 31.12.2004. After this, the plaintiff claims to have got in touch with one AICE Recruitment at Paris, for recruiting hairdressers for the said new Salons at Delhi and Mumbai. It is also claimed that Mr. Ravi Chawla, on behalf of the Plaintiff, visited Paris at the defendant's request to meet the latter's representatives on 7/8.09.2004. It is alleged that during the meeting the defendant re-affirmed that its relationship (with the Plaintiff) for the salon at Delhi would continue beyond 31.12.2004, and also that opening of new Salons was again approved. It is alleged that based on this understanding between the Plaintiff and the Defendant, the former finalized the hiring of French Hair Stylists and Managers through the AICE Recruitment, the nominated recruitment agency of the Defendant. For this purpose, Shri Chawla finalized the plaintiff's orders with M/s Maletti, Italy, the nominated manufacturers of Jacques Dessange equipments and furniture, for supplies of equipments and furniture for the new Salons at Mumbai and Delhi.

7. It is also averred that by the letter dated 8.9.2004, the defendant again showed its intention of continuing the Delhi Salon in one manner or the other beyond 31.12.2004, by assuring the Plaintiff of 'eventual creation of master franchisee' to

include the existing Salon at Delhi. The latter offered certain financial conditions, in modification of the earlier terms under the Master Franchisee Agreement and also sought for the acceptance by the Plaintiff of those terms and the agreement. The Plaintiff, through the letter dated 13.09.2004 reconfirmed its acceptance of the offer of 8.09.2004. This, it is alleged, concluded the Master Franchisee Agreement between the parties. The Plaintiff also informed the Defendant that the new Mumbai Salon was ready and could be opened as soon as the new items could be received from Maletti.

8. It is alleged that on 21.09.2004, the Defendant faxed a letter, dated 20.09.2004 to the Plaintiff terminating the Franchisee Agreement, with respect to the Mumbai Salon retrospectively effective from 31.07.2004 apart from casting cloud/doubts about the future of the otherwise concluded Master Franchisee Agreement. The said letter came as a rude shock to the Plaintiff. It is alleged that the Defendant, by that letter had also made several incorrect assumptions of the Plaintiff's action, only to somehow justify their action taken under the said letter. It is claimed that the plaintiff was also informed by Ms. Sandrine Opter, of AICE Recruitment Agency that in view of instructions of the defendant, the three selected hair stylists would now not proceed to take up the assignment at the Delhi Salons. The Plaintiff immediately sent a detailed letter to the Defendant on 25.09.2004 pointing out that the latter's actions were illegal and would cause it serious prejudice. It is also alleged that the defendant's actions are actuated primarily on account of their intention to transfer their Franchisee to some other competitors of the Plaintiff in the business of Salons.

9. It is alleged that the defendant is therefore in serious and material breach of the two Franchisee Agreements dated 1.6.2000 and 1.7.2002, in respect of the Delhi and the Mumbai Salons. This amounts to attempting to renege the Master Franchisee Agreement, which is patently illegal, as it had been concluded between the parties; it is also seriously prejudicial to the interest of the Plaintiff and would cause irreparable and irretrievable harm, loss and damage; to the goodwill, incapable of being restituted. It is alleged that the present Jacques Dessange Salon operated by the Plaintiff at Delhi is identified as part of Ravissant brand. Whatever goodwill Jacques Dessange has acquired in India is only and entirely because of

the Plaintiff' efforts over the last four years.

10. The defendants were served, and they caused appearance, in the suit to defend the proceedings. However, they did not file any written statement; the right to do so was foreclosed by order dated 26th July, 2005. They also went unrepresented later on. The plaintiff, in support of its case, examined Mr. Ravi Chawla, its Managing Director, as PW-1, through his affidavit and his deposition in its support. He also marked documents as exhibits, in support of the suit.

11. PW-1 deposed about the initial execution of the Franchise Agreement, between parties on 1-6-2000 and a subsequent agreement on 1-7-2002. A copy of the latter was marked as Ex. P-2. These two agreements led to opening of Jacque Dessange salons in Delhi and Mumbai. The witness deposed about his desire, to the defendant in May 2003 of exploring the possibility of opening other such salons in different parts of the country and requesting for rights as a sub-franchisee and the forwarding of a draft Master Franchise Agreement to him through mail dated 28-5-2003. He relies upon a letter of 3-7-2003, by defendant, Ex. P-5 approving opening of salons elsewhere and for signing the Master Franchise Agreement. He further relies upon the defendant's letter of appreciation dated 19-7-2003 Ex. P-7. PW-1 also adverts to letters dated 30-3- 2004 and 8-4-2004 to support the claim that the defendant too was keen to enter into a master franchise agreement. He claims to have hired Ms. Martine Fuzeau, a trainer from Jacques Dessange salon which was to open at Mumbai, and also paying Rs. 7,56,417/- towards salary and travel expenses. According to PW-1, before the additional salons could be opened at Mumbai, the existing salon had to be shut down ' a fact made known to the defendant through Ex. P-11 and Ex. P-12.

12. PW-1 stated that the defendant, through its letter dated 14-6-2004 accepted and endorsed the plaintiff's decision to close down the Mumbai salon, and nevertheless indicated its resolve to have an arrangement concerning the Master Franchise agreement ' Ex. P-13. Likewise, the witness deposes about the defendant's approval to the plaintiff's proposal to open another salon in the New Ravissant Store at Mumbai, in the mail dated 5-7-2004, Ex. P-15. He further claims to have spent Rs. 75 lakhs towards renovation works and Rs. 20 lakhs

towards architect's fee, as well as Rs. 4 lakhs as rental per month and the sum of Rs. 18 lakh towards salary of staff and recruitment firm AICE, France. PW-1 mentions about the defendant's letter of 19-7-2004, Ex. P-17 to cancel the franchise agreement in relation to the Delhi salon on the expiry date, i.e 31- 12- 2004, and yet also showing intention to continue with the relationship as regards the Delhi salon, with modified conditions. This was acceptable to the Plaintiff : PW- 18. He claims to have travelled to meet with the defendant's representatives, in the first week of September, to Paris, when they agreed to enter into the Master Franchise contract. He also claims to have spent Rs. 5,33,017/- on traveling and Rs. 3,19,365/- towards expenses, and finalized, with M/s Maletti, Italy, regarding equipments and furniture for the new salons in Mumbai and Delhi. He claims to have spent Rs. 53, 56,065/- as expenses; in support, he exhibited Ex. P-21 bills and vouchers. Through letter dated 13-9- 2004, (Ex. P-22) the plaintiff is said to have confirmed acceptance of the offer, including obligations listed in it. On this basis it is deposed that the Master Franchise Agreement stood concluded.

13. The witness PW-1 deposes that in the above background, when the plaintiff had finalized arrangements to recruit consultants, furnish the salons, and also recruited the staff, the defendant sent its letter dated 20-9-2004, Ex. P-23, terminating the Franchise Agreement with respect to the Mumbai salon, with effect from 31-7-2004, apart from casting doubts about the future of the Master Franchise Agreement.

14. The above facts and pleadings show that the plaintiff entered into two franchise agreements, one concerning the salon in Delhi, on 1-6-2000, effective till 31-12-2004 (Ex. P-1) and the other, concerning the salon at Mumbai, on 1-6-2002, effective till 31-12-2006 (Ex. P-2). Other than the specifics regarding locale and period of the agreement, the terms were identical; the plaintiff agreed to open salons in premises hired by it; the banner or brand to be used was the 'Jacques Dessange' logo. The standards for such use, the know how, uniforms etc were to be according to specifications of the defendant. The latter owned the trademark for the product description and style. It also claimed a certain percentage of the proceeds, as fees. The plaintiff on 14-6-2004 (Ex. P- 13) notified its decision to close down the Mumbai salon; this was accepted by the defendant. On 19-7-2004,

through Ex. P-17. The defendant notified the plaintiff about its decision to cancel the franchise agreement in relation to the Delhi salon on the expiry date, i.e 31-12-2004. These and other previous letters as well as discussions between the parties are claimed to be the basis of an agreed 'Master Franchise Agreement' said to have been allegedly concluded by the parties. On the strength of these allegations, the plaintiff seeks declaration that the term of the Franchise Agreement dated 1-6-2000 stood executed beyond 31-12-2004 and a further declaration that a 'Master Franchise agreement' is deemed to have been concluded between parties. Another declaration that the termination letter Ex. P-23, dated 20-9-2004 is illegal and of no effect, is claimed. Permanent injunction against the defendant restraining it from giving effect to or enforcing the termination letter dated 20 September, 2004 and a mandatory injunction restraining the defendant from withholding any of its obligations under the Franchise Agreements dated 1-6-2000 and 1-7-2002 under the Master Franchise Agreement, have been sought.

15. Clause 2 of both the agreements, dated 1-6-2000 and 1-7-2002, read identically, as follows:

Clause 2 Period of the Agreement This Agreement, granted for a period starting on 1st June 2000 and ending on 31st December 2004 Tacit Renewal This Agreement shall be renewed by tacit agreement for further periods of 5 (five) years if, 3 (three) months before each period expires, neither of the parties has notified to the other party by registered letter with acknowledgement of receipt, reference being made to the date of postage, of his intention to terminate the Agreement. It shall be renewed thereafter in similar fashion for further periods of 5 (five) years subject to the same reservations. However, notwithstanding the preceding provisions, the FRANCHISOR shall at any time have the option of terminating the agreement, in particular, in the event of non-observance breach, non-performance or non-execution by the FRANCHISEE of any of the following conditions pursuant to the 'AVOIDANCE CLAUSE' given under Article 16 below.

16. The analysis of facts would show that the plaintiff of its own volition had closed business at the Mumbai salon. These communications were accepted by the

defendant; at that stage it expressed the need to replace the salons, on an urgent basis. In this background, the letter dated 8th September, 2004 (Ex. P-21) by the defendant is indicative of its intention to enter into a master franchise agreement with the plaintiff, for four years; certain broad terms concerning royalty, or fees were spelt out. Other conditions were also indicated. The defendant adverted to a draft agreement having been sent to the plaintiff, earlier, but also stated that it would send its confirmation about the Master Franchise Agreement, after receiving the plaintiff's response, and evaluating it. The plaintiff expressed its willingness for the Master Franchise Agreement, in the letter (Ex. P-22) dated 13th September, 2004. It also requested the defendant to send its confirmation regarding acceptance of the Master Franchise agreement, whereby the plaintiff was to be its franchisee. This was followed by Ex. P-23, where the defendant declined to confirm its position regarding a Master Franchise Agreement.

17. Now as far as the relief is concerned, the plaintiff seeks declaratory reliefs that the term of the Franchise Agreement dated 1-6-2000 stood executed beyond 31-12-2004 and declaration that a 'Master Franchise agreement' is deemed to have been concluded between parties. Another declaration that the termination letter Ex. P-23, dated 20-9-2004 is illegal and of no effect, is claimed. Permanent injunction against the defendant restraining it from giving effect to or enforcing the termination letter dated 20 September, 2004, is sought. All these claims have to be considered together, as the question is whether the parties are said to have entered into a lawful and binding contract, i.e the Master Franchise Agreement.

18. Long ago, in *Haridwar Singh v. Bagun Sumbrui* : [1972]3SCR629 the Supreme Court had underlined the need for enforceability of a contractual relationship to be premised upon a concluded contract. The court dealt with 'conditional acceptance' of offers to see whether the happening of an event, foreseen by one party could amount to acceptance, in futuro as it were. The court held, quoting Williston : *On Contracts*, Vol. I, 3rd Ed., Section 77-A that:

A nice distinction may be taken here between : (1) a so-called acceptance by which the acceptor agrees to become immediately bound on a condition not named in the offer, and (2) an acceptance which adopts unequivocally the terms of

the offer but states that it will not be effective until a certain contingency happens or fails to happen. In the first case there is a counter-offer, and rejection of the original offer; in the second case there is no counter-offer, since there is no assent to enter into an immediate bargain. There is, so to speak, an acceptance in escrow, which is not to take effect until the future. In the meantime, of course, neither party is bound and either may withdraw. Moreover, if the time at which the acceptance was to become effectual is unreasonably remote, the offer may lapse before the acceptance becomes effective. But if neither party withdraws and the delay is not unreasonable a contract will arise when the contingency happens or stipulated event occurs.

8. In this case, it is not the want of communication of the confirmation by the Government to the appellant that really stands in the way of there being a concluded contract, but rather the want of confirmation by the Government of the conditional acceptance by the Divisional Forest Officer. The appellant's bid was for Rs. 92,001/-. The acceptance of the bid by the Divisional Forest Officer was, therefore, subject to confirmation by Government. The proceedings of the Minister, dated November 27, 1970, would show that he did not confirm the acceptance of the offer by the Divisional Forest Officer. What the Minister did was not to confirm the acceptance made by the Divisional Forest Officer, but to accept the offer made by the appellant in his communication, dated October 26, 1970, that he would take the coup for the reserved price of Rs. 95,000/-. There was, therefore, no confirmation of the acceptance of the bid to take the coup in settlement for the amount of Rs. 92,001/-. If the offer that was accepted was the offer contained in the communication of the appellant, dated October 26, 1970, we do not think that there was any communication of the acceptance of that offer to the appellant.

19. A careful reading of the defendant's letter dated 8th September, 2004 would show that it sought the plaintiff's views about the proposal to enter into a more enduring relationship, i.e the Master Franchise Agreement. Some of the terms were spelt out; the defendant also indicated that its previous draft for that purpose was with the plaintiff, but at the same time emphasized that the draft had undergone some evolution. The plaintiff, in its letter Ex. P-22 agreed to the

proposal, and sought confirmation. This clearly showed that the defendant had merely issued an invitation to offer, to the plaintiff; the latter in turn agreed. This resulted in a binding offer by the plaintiff. However, to crystallize into a binding promise or contract, the offer had to be accepted by the defendant. The plaintiff recognized this, and sought confirmation from the defendant. However the defendant's letter of 20th September 2004 unequivocally stated that it was unwilling to enter into a Master Franchise Agreement. There was as such no concluded contract.

20. There is another aspect to the dispute. Section 34 of the Specific Relief Act, which empowers the civil court to issue declarations, reads as follows:

Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying or interested to deny his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief: "Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Section 34 obliges every litigant seeking a declaration to club all the reliefs which he is capable of seeking, as a consequence to that relief. In this case, the plaintiff has made extensive references to the alleged expenses incurred by it on account of the representations of the defendant to it, about the possibility of a master franchise agreement. Those expenses have been clearly articulated in monetary terms. Yet, the plaintiff has consciously chosen not to seek any relief in that regard. Instead, it seeks two declarations i.e that the master franchisee agreement stood executed, and that the termination of contract was illegal.

21. In the judgment reported as R.K. Aneja v. Delhi Development Authority 47 (1992) DLT 649, this Court, emphasized the need to seek proper relief, along with the claim for declaration and also articulated the consequence of absence or failure of the plaintiff:

29. It is crystal clear from the prayer clauses reproduced above that the plaintiff through the institution of the present suits wants this Court to declare Clauses 19

and 30 of the conditions of contract as un-enforceable, null and void and action taken by the defendants under Clause 2 of the agreement also as null and void. The sum and substance of the relief's sought is that the defendants may not withhold the amount and the same be paid to him. Similarly, no penalty be imposed on him by the defendants and he be got paid the amount which has fallen due to him into. Thus, this Court feels that the applicant could have sought further relief after seeking the impugned declaration, i.e., the recovery of the amounts which have fallen due to him. The applicant for the best reasons known to him confined himself to seeking a mere declaration without seeking the further relief which he was entitled to. Such a suit I feel is clearly barred by Section 34 of the Specific Relief Act. The learned Counsel for the applicant has failed to show anything to the contrary.

22. In the present case, the plaintiff has not sought the appropriate consequential relief, i.e decree for any amount of money allegedly spent by it, towards expenses. The plaint averments show that such a claim was available. In view of these facts, the reliefs of declaration are clearly barred.

23. As regards the injunctive relief in respect of the termination letter is concerned, it would be necessary to notice two provisions, i.e Section 14 and 41 of the Specific Relief Act. They are as follows:

14. Contracts not specifically enforceable.'(1) The following contracts cannot be specifically enforced, namely:

(a) a contract for the non-performance of which compensation is an adequate relief;

(b) xxx xxxx xxxx(c) a contract which is in its nature determinable

xxx xxxx xxxx41. Injunction when refused'An injunction cannot be granted'

(e) to prevent the breach of a contract the performance of which would not be specifically enforced.

24. Under English law specific performance of contractual obligation is available only in equity and is subject to well defined restrictions. This position is explained by G.H. Treitel's treatise, 'The Law of Contracts' VIth Edition, pages 764 to 775. It is said that's specific performance will not be directed where damages are adequate remedy; if the contract involves personal service, or requires constant supervision and if the party against whom specific performance is sought is entitled to terminate the contract. The author explains, at page 775, that:

If the party against whom specific performance is sought is entitled to terminate the contract, the order will be refused as the defendant could render it nugatory by exercising his powers to terminate. This principle applies whether the contract is terminable under its express terms or on account of the conduct of the party seeking specific performance.

25. The position, i.e effect of breach of a contract by a party seeking to specifically enforce a contract under Indian law is dealt with in Section 14(c) read with Section 41(e) of the [Specific Relief Act, 1963](#). Clause (e) of Section 41 of the Specific Relief Act provides that injunction cannot be granted to prevent the breach of contract, the performance of which would not be specifically enforced. Clause (c) to Sub-section (1) of Section 14 says that a contract which is in its nature determinable cannot be specifically enforced. If it is found that a contract which by its nature is determinable, the same not only cannot be enforced but in respect of such a contract no injunction could also be granted and this is mandate of law. This, is subject, however, to an exception, provided in Section 42 that where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstances that the Court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement.

26. In *Indian Oil Corporation Ltd. v. Amritsar Gas Service and Ors.* : (1991)1SCC533 the Supreme Court considered the terms of a distributorship agreement, which could in terms, be terminated, under Clauses 27 and 28. The respondent contended that since the contract had not been terminated in

accordance with Clause 27, the firm was entitled to continuance of distributorship in the special circumstances of the case, which was upheld by the Arbitrator. Supreme Court set aside the award of the arbitrator on the ground that there is error of law apparent on the face of the record and grant of relief in the award cannot be sustained. It was held:

Sub-section (1) of Section 14 of the Specific Relief Act specifies the contracts which cannot be specifically enforced, one of which is a contract which is in its nature determinable. In the present case, it is not necessary to refer to the other clauses of Sub-section (1) of Section 14, which also may be attracted in the present case since Clause (c) clearly applies on the finding read with reasons given in the award itself that the contract by its nature is determinable. This being so granting the relief of restoration of the distributorship even on the finding that the breach was committed by the appellant-Corporation is contrary to the mandate in Section 14(1) of the Specific Relief Act and there is no error of law apparent on the face of the award which is stated to be made according to the law governing such cases. The grant of this relief in the award cannot, therefore, be sustained.

In *Classic Motors Ltd. v. Maruti Udyog Ltd.* : 65(1997)DLT166 this Court observed:

In view of long catena of decisions and consistent view of the Supreme Court, I hold that in private commercial transaction the parties could terminate a contract even without assigning any reasons with a reasonable period of notice in terms of such a Clause in the agreement....

The above position has been endorsed in other judgments, such as *Marriott International Inc. and Ors. v. Ansal Hotels Ltd. and Anr.* : AIR2000 Delhi377 ; *Airport Authority of India v. Kunwar Singh Yadav* : 82(1999)DLT546 ; *Indian Oil Corporation v. Shriram Gas Service* : 57(1995)DLT279 ; *Rajasthan Breweries Ltd. v. The Stroh Brewery Co.* 2000 VI AD (Delhi) 741 and *Cogent Silver Fibre Pte Ltd. v. Noble Fibre Technologies Inc. and Ors.* : AIR2006 Delhi292 .

27. In the present case, both the franchise agreements, relating to the Delhi venture as well as the one pertaining to Mumbai, contained clear stipulations which made them determinable. In these circumstances, applying the rule in

Amritsar Gas Service's case (supra) and the other decisions which have followed it, the court concludes that injunctive reliefs are barred, in view of Sections 14 and 41 of the Specific Reliefs Act. The plaintiff has also not established that any affirmative obligation under Section existed, which entitled it to such relief. Thus, the other reliefs claimed too cannot be granted.

28. In view of the findings recorded above, the suit has to fail; it is accordingly dismissed.

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