

Jindal (India) Ltd. Vs. Jindal Pipe House

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Court : Delhi

Decided On : Mar-08-1997

Reported in : 1997IIIAD(Delhi)912; 1997(2)ARBLR106(Delhi); 66(1997)DLT867

Judge : M.K. Sharma, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 39, Rule 1

Appeal No. : Suit No. 466 of 1993

Appellant : Jindal (India) Ltd.

Respondent : Jindal Pipe House

Advocate for Pet/Ap. : Nemo,; K.L. Aggarwal and; S.K. Agarwal, Advs

Judgement :

M.K. Sharma, J.

(1) The plaintiff instituted the present suit praying for issuance of perpetual injunction restraining the defendants from carrying on their business of galvanised iron tubes, pipes and fittings thereof under the trade name and/or style as Jindal Pipe House or under any other trade name identical and/or deceptively similar to the trade mark 'JINDAL' and the trading style 'JINDAL India LIMITED' of the plaintiff. According to the plaintiff, the plaintiff Company is engaged in the manufacture and sale of galvanised iron pipes and tubes together with the fittings

thereof since 1952 and that plaintiff has been using the trade mark 'JINDAL' on their aforesaid goods extensively and exclusively from the year 1956. The plaintiff Company is also the registered proprietor and owner of the trade mark 'JINDAL' in class 6 in respect of steel pipes and fittings which came to be renewed from time to time and is subsisting. It is stated that since 1956 the plaintiff has been regularly and extensively using the aforesaid trade mark 'JINDAL' with respect to the galvanised iron pipes, tubes and the fittings thereof and has also widely advertised the said goods under the said trade mark 'JINDAL' and trading style 'JINDAL India LIMITED'. It is stated that the defendant Company being attracted by the popularity of the well-known and well reputed trade mark in respect of the product of the plaintiff concerning galvanised steel pipes and tubes and fittings dishonestly adopted its trading style as 'JINDAL Pipe HOUSE' for marketing their products - steel tubes and pipes which is a clear infringement of the registered mark 'JINDAL' of the plaintiffs. The defendants are also passing off their goods as the goods of the plaintiffs. Accordingly the present suit has been instituted by the plaintiff against the defendants.

(2) Along with the plaint the plaintiff also filed an application under Order 39 Rules 1 & 2 of the Code of Civil Procedure praying for a temporary injunction restraining the defendants from using, trading or carrying on business in the name and style of 'JINDAL Pipe HOUSE' or under any trade name identical or and/or deceptively similar to the trade mark 'JINDAL' and trading style 'JINDAL India LIMITED' of the plaintiff. This Court by order dated 22.2.1993 granted an ex parte interim order in favor of the plaintiff as prayed for in the said injunction application.

(3) Summons and notices having been served on the defendants none appeared on its behalf nor any written statement was filed and accordingly, it was directed that the suit would proceed exparte as against the defendant. The plaintiff was allowed to lead evidence by filing an affidavit which has since been filed and is on record.

(4) Shri P.D.Bhoot, one of the Directors of the plaintiff Company has filed the affidavit and he has also proved registration certificate of the plaintiff showing the trade mark 'JINDAL' registered in the name of the plaintiff in class 6 renewed from

time to time and valid till date. The said certificates have been exhibited as Exs.P-3 to P-6. The said witness has also proved and exhibited the extract from the register of Copyrights showing the plaintiff Company as the owner and proprietor of the artistic work/label/logo entitled 'JINDAL', as Ex.P-7. The plaintiff company has also been issuing for publication Trade Mark Caution Notices in various newspapers, trade magazines etc. for the information of the general public and copy thereof as published in the Newspaper is proved as Ex.P-8. The supply made by the plaintiff of its product galvanized iron tubes, pipes and fittings to the Director General of Supplies & Disposal are proved by exhibiting correspondence thereof which are marked Exs. P-9 & P-10. The factum of giving publicity by the plaintiff Company in respect of its trade mark 'JINDAL' is also proved as Ex.P-11 which is a sale statement of the plaintiffs from the year 1960 to 31st March, 1992. The aforesaid documentary evidence prove and establish that the plaintiff has been using the trade mark 'JINDAL' and has adopted the trading style 'JINDAL India LIMITED' from the year 1956 in respect of galvanised iron pipes and tubes together with the fittings thereof and that the said trade mark and the trading style of the plaintiff Company in relation to the aforesaid goods is being associated with the plaintiffs continuously, exclusively and extensively all along, and the same has come to be identified and recognised with the plaintiff Company. The witness has also proved the trading style adopted by the defendant as 'JINDAL Pipe HOUSE' by proving Ex.P-13. It has been stated by the said witness that the defendant has dishonestly adopted and pirated registered trade mark and trading style of the plaintiff and adopted its trading style as 'JINDAL Pipe HOUSE' in respect of the similar nature and description of products which is clear infringement of the trade mark and trading style of the plaintiff.

(5) There is no rebuttal evidence to the evidence produced by the plaintiff. From the evidence on record I am satisfied that the plaintiff has been able to prove the case as made out in the plaint. The learned Counsel appearing for the plaintiff submitted that the plaintiff is pressing only for the first three reliefs in the plaint and is not pressing the relief sought for in the plaint with regard to the rendition of accounts of profits earned by the defendant.

(6) In the result, the suit filed by the plaintiff stands decreed to the extent that the defendant is restrained from carrying on its business of galvanised iron tubes, pipes and fittings thereof under the trade mark 'JINDAL' and trading style 'JINDAL Pipe HOUSE' or under any other name identical and/or deceptively similar to the said trade mark and trading style of the plaintiffs. The defendant is further restrained from using the registered trade mark 'JINDAL' at any time in future in respect of their products of steel pipes, tubes and fittings thereof and/or any other trade mark identical and/or deceptively similar to trade mark of the plaintiffs. The defendant is also restrained from using the words 'JINDAL Pipe HOUSE' or any other word identical or deceptively similar with or likely to cause confusion with 'JINDAL' as part of its corporate name. The operation of this injunction only in respect using the word 'JINDAL' as part of its corporate name shall remain suspended for a period of 3 months so as to enable the defendant to take steps for change in the name of the Company. The suit stands decreed to the extent indicated above with costs. All the pending applications also stand disposed of.

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