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Court : Delhi

Decided On : Oct-06-2005

Reported in : 2006(32)PTC391(Del)

Judge : Vikramajit Sen, J.

Appeal No. : CM 12212/2005 in W.P. (C) 10080/2005

Appellant : Jagatjit Industries Ltd. and anr.

Respondent : The Controller General of Patents Designs and Trade Marks and anr.

Advocate for Def. : Sudhir Chandra, Sr. Adv. and ; Hemant Singh, Adv. for Respondent No. 3.

Advocate for Pet/Ap. : Anil Sharma and; N. Menon, Advs

Judgement :

Vikramajit Sen, J.

1. This petition had been disposed of by Orders dated September 13, 2005. This application has been filed by Respondent No.3, namely, Austin Nichols and Co. Inc. seeking a clarification in that Order.

2. The Order dated 13.9.2005 has been misconstrued by the Petitioner. This is indeed unfortunate and regrettable since it was in the nature of a consent order. I had directed the Controller General of Patents, Designs and Trademarks, New Delhi to dispose of the proceedings pending before it on or before 16.11.2005. Thereafter I had taken note of the pendency of a Civil Suit in Jalandhar. However, it had been incorrectly observed that an injunction restraining Austin Nichols from selling Benders Pride Whisky in India had been passed in those proceedings.

3. The parties had agreed that till 16.11.2005 status quo would be maintained. It was in this context that an expectation had been expressed by this Court that the District Court at Jalandhar would consider the expediency of adjourning proceedings to any date beyond 16.11.2005. Despite these Orders Shri Jagroop Singh Mahal, District and Session Judge, Jalandhar has fixed the case for arguments on the application for stay of proceedings and for amendment of issues on 19.10.2005. It defies login how status quo can be maintained if there is a likelihood of stay orders being passed. This unsatisfactory and unsavoury position has been reached because of the argument of counsel for Jagatjit Industries that the application for stay should first be considered and thereafter the litigation can be adjourned. This argument is totally against the Orders dated 13.9.2005.

4. On 26.9.2005 it had been contended by Shri V.P. Singh, learned Senior Counsel for the Petitioner, that this Court does not possess the power to restrain judicial proceedings in other States of India. This contention cannot be countenanced in view of Sub-Article (2) of Article 226 which preserve the power of High Courts exercising jurisdiction in relation to territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of an authority is not within the territories over which that High Court holds sway.

5. Assuming for the sake of argument that this Court cannot issue directions to a Court inferior so far as hierarchy is concerned, judicial comity enjoins the latter Court to respect and implement the Orders passed by the former.

6. In Anubha vs . Vikas Agrawal, : 86(2000)DLT713 I was faced with the piquant situation where the Husband resided outside India and had filed a divorce petition

in United States of America. I had ordered his personal presence and had also restrained him from carrying on proceedings in the Courts in USA. Neither direction had been obeyed and instead appeals had been filed first before the DB and thereafter before the Hon'ble Supreme Court. Both the Appeals were dismissed. Reference to Vikas Agrawal v. Anubha : [2002]2SCR1084 . will suffice.

7. To quell and scotch any further dispute I restrain the Petitioner from pursuing the proceedings that are pending in the District Court at Jalandhar till the next date of hearing.

8. List the matter on 18.11.2005.

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