

THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment Pronounced on: 16.11.2010

+ **CS(OS) No. 51/2008**

GOSSINI FASHION LTD.

.....Plaintiff

- versus -

DELHI LEATHER KARIGAR SANGATHAN Defendant

Advocates who appeared in this case:

For the Plaintiff: Mr.Jasmeet Singh, Adv. with Ms. Aahuti
Sharma

For the Defendant: Ex-parte

CORAM:-

HON'BLE MR JUSTICE V.K. JAIN

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | No |
| 3. Whether the judgment should be reported in Digest? | No |

V.K. JAIN, J (Oral)

1. This is a suit for permanent injunction. The plaintiff is a company and the plaint has been signed and verified and the suit instituted through its Attorney Mr.Prakash Mohan Sahai. It has been alleged in the plaint that the defendant, which is a union of the employees of the plaintiff company issued a notice dated 3rd January, 2008

threatening to hold agitation on 4th January, 2008 from 10 AM to 6 PM in front of the business premises at B-1/E-3, Mohan Co-operative Industrial Estate, New Delhi, until its demand for reinstatement of certain employees and compensation to them was met. It has been further alleged that the defendant Union carried out demonstrations on 6th January, 2008 and 9th January, 2008 and during demonstration it created disturbances preventing officials/officers of the plaintiff company in their ingress to and egress from the work place. Some of the employees of the plaintiff were also manhandled during demonstrations. It has been alleged in the plaint that these demonstrations and agitations had a major impact on the normal functioning of the plaintiff company, since the customers and visitors have to regularly visit the factory premises of the plaintiff at B-1/E-3, Mohan Co-operative Industrial Estate, New Delhi. The plaintiff, therefore, has sought injunction restraining the defendant, its agents, representatives etc. from holding demonstrations and dharnas, shouting slogans and holding meetings outside the premises of the plaintiff at B-1/E-3, Mohan Co-operative Industrial Estate, New Delhi. The plaintiff has also sought

injunction restraining them from obstructing or preventing ingress to or egress from the premises of the plaintiff company. They have also sought injunction against interference in the normal functioning of the plaintiff company from the above-referred premises.

2. The defendant was proceeded ex-parte on 6th March, 2009.

3. The plaintiff by way of ex-parte evidence has filed affidavit of Mr.Manish Pant who is to duly constituted attorney of the plaintiff company vide authorization letter Ex. PW1/1 signed by Mr.Sudhir Sood in his favour. Mr.Sudhir Sood is a Director of the plaintiff company and his signatures on the authorization letter have been identified by the deponent. The resolution in favour of Mr.P.N.Sahai who had instituted the suit and signed and verified the plaint is Ex. PW1/2. The Memorandum and Articles of Association of the plaintiff company is Ex. PW1/3.

4. In his affidavit, Mr.Manish Pant has stated that the plaintiff/company had engaged a contractor namely, M/s. Elite Industiral Security Service which had provided its employees, namely, Rajesh Kumar, Binesh Babu, Paigambar

Ahmad and Jawahar Singh at the factory premises of the plaintiff company. Since these persons were not working properly they were removed by the contractor. Thereupon the defendant started threatening the plaintiff company to take back those persons. Since they were not the employees of the plaintiff company there could be no question of the plaintiff taking them back in employment. A notice Ex. PW1/4 was then sent by the defendant to the plaintiff company, seeking reinstatement of these four persons and payment of compensation to them. He further stated that demonstrations were held on 6th and 9th January, 2008 and during demonstrations the defendant created disturbances preventing officers/officials of the plaintiff in their ingress to and egress from the work place at B-1/E-3, Mohan Co-operative Industrial Estate, New Delhi. Some of the employees of the plaintiff/company were also manhandled during the demonstrations. He also stated that the defendant is threatening to carry out demonstrations regularly till its demand for reinstatement and possession is made and they have also manhandled the employees of the plaintiff/company from their ingress and egress from the workplace. According to him, further demonstrations were

also held in October, 2008 and July, 2009.

5. The plaintiff has also produced the photographs taken during the demonstrations held on 9th January, 2008 and the same are collectively exhibited as Ex.PW1/5. A report was also lodged by the Manager of the plaintiff/company with P.S. Badarpur in this regard on 9th January, 2008 and the same is Ex.PW1/6. Photographs were also taken during demonstrations held on 10th January, 2008 and the same are collectively exhibited as Ex.PW1/7. The complaint made to the police on that date is Ex. PW1/8. It is also stated that on 18th January, 2008 the striking workers physically threatened to beat some employees of the plaintiff/company. The photographs taken during the violent demonstration held on 18th January, 2008 are collectively exhibited as Ex.PW1/9.

6. Ex.PW1/2 is the copy of the resolution passed and the Board of Directors of the plaintiff/company on 5th November, 2007 authorizing Mr.Prakash Mohan Sahai, a Director of the plaintiff company to file suit and sign and complete all the formalities on behalf of the plaintiff company. Ex. PW1/4 is the letter dated 3rd January, 2008 signed by the defendant to the plaintiff/company, asking it

to take back four persons, namely, Rajesh Kumar, Binesh Babu, Paigambar Ahmad and Jawahar Singh within 48 hours. There is a note at the bottom of this letter whereby it was informed that the employees would hold dharnas and demonstrations from 10 AM to 6 PM from 4th January, 2008 onwards at the gate of the factory. These photographs Ex. PW1/5 which were taken on 9th January, 2008 clearly show the employees holding demonstration at the gate of the factory of the said company. The letter dated 9th January, 2008 addressed to SHO, P.S. Badarpur contains a report to the police with respect to the demonstrations held by the workers at the factory premises and seeking police deployment near the factory premises. The photographs Ex. PW1/7 taken on 10th January, 2008 also show the gathering of the workers at the gate of the factory. The letter sent to SHO, P.S. Badarpur on 11th January, 2008 also complains of the employees loitering near the factory premises carrying *lathis/dandas* etc. with them and seeking police deployment. The photographs Ex. PW1/9 which were taken on 18th January, 2008 also show the damage to the property of the plaintiff/company. A report was also lodged with the SHO, P.S. Badarpur in this regard on 18th January,

2008.

7. Shri P.N.Sahai, at the relevant time was a Director of the plaintiff/company was duly authorized by Board of Director of the plaintiff/company to institute the suit and to sign the pleadings etc. Therefore, the plaint has been signed and verified and the suit instituted by a competent person.

8. The notice sent by the defendant to the plaintiff/company clearly indicates the resolve of the defendant to hold dharnas and demonstration at the gate of the factory unless and until its demand for taking back the four persons named in the notice is made. The affidavit of Shri Manish Pant coupled with the photographs filed by the plaintiff/company and the reports made to the police from time to time show that not only demonstrations/dharnas were held, the employees of the plaintiff/company were also manhandled during the course of demonstrations and they were also obstructed while entering the factory and/or coming out of it.

9. It is well known that tempers run high when demonstrations of such nature are organized by a union of workers. It becomes really difficult to control the mob and there is a serious apprehension of breach of peace and law

and order in case such demonstrations/dharnas are allowed to be held in the vicinity of the factory where the workers are employed. The property of the employer is usually made a target during such demonstrations. The visitors and the employees who do not support such demonstrations are also targeted and manhandled, in order to prevent them from entering to premises of its employer. The obvious purpose is to put pressure on to employer, by resort to unlawful and violent means, to give in to demand of the Union. There is a strong likelihood of the property being damaged, the visitors and those employees who do not side with the Union being manhandled and obstructed during their ingress to and egress from the premises of the employer, if such unlawful activities are allowed to be undertaken. Infact the business of the employer and functioning of its office and factory may come to a standstill, unless appropriate preventive directions are issued to a Union taking recourse to such methods. The personal safety of the visitors, managers and other workers may also be in jeopardy unless unlawful activities of this nature are appropriately curbed.

10. For the reasons given in the preceding paragraphs,

the suit is decreed to the extent that the defendant is restrained from holding any demonstration/dharna within a radius of 50 meters from the factory premises of the plaintiff at B-1/E-3, Mohan Co-operative Industrial Estate, New Delhi. The defendant is also restrained from obstructing the managers, employees and visitors from entering the factory premises or coming out of it. The defendant will also not interfere with the normal functioning of the plaintiff/company in any unlawful manner. Decree sheet be prepared accordingly.

(V.K. JAIN)
JUDGE

NOVEMBER 16, 2010
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