

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.5851 of 2014 (O&M)

Date of decision: 10.09.2015

M/s Kay Cee Exports

.....Petitioner

versus

Nentex Woolens and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Himanshu Arora, Kamal Kishore Arora and
Gaurav Arora, Advocate for the petitioner
Mr.Sanjay Majithia, Senior Advocate with
Mr.Rajesh K. Bhagal, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Impugned in the present revision is the order dated 3.7.2014, passed by learned Civil Judge, Junior Division, Amritsar, vide which an application filed by the defendant for rejection of the plaint on the ground that the jurisdiction of the Court to try and decide the present suit is barred under the Copy Right Act, Design Act and the Patents Act was dismissed. Another application filed for review of the said order was dismissed vide another order dated 6.8.2014.

I have heard learned counsel for the parties and have also carefully gone through the file.

The plaint (Annexure P4) has been examined by this Court wherein no relief has been claimed under Copy Right Act,

Trade Mark Act or Design Act. In the plaint, it is simply stated that the defendant should be restrained from interfering in the manufacturing activities of the plaintiff and the Packing Packer Ustad and at other places where goods of plaintiff are being manufactured, prepared, packed etc.

Learned counsel for the petitioner contends that in fact under the garb of the suit, the relief regarding the Design Act and Copy Act is being sought which is triable by the Court of District Judge only.

However, perusal of the plaint does not show that any relief under the said Acts has been claimed. If the defendant has any case that the plaintiffs are camouflaging the relief and in fact seeking relief under the Design Act and the Copy Right Act, then it is always open to the defendant to take such plea which will dis-entitle the plaintiffs from getting injunction as prayed for by them. Under Order 7 Rule 11 CPC, the plaint can be rejected only when from the perusal of the plaint it comes out that it is barred by some law.

It being so, there is no ground to interfere in the impugned orders.

Accordingly, the revision is dismissed. However, the petitioner shall always be at liberty to take appropriate plea in the written statement which shall be considered and decided on merits.

10.09.2015
gk

(Kuldip Singh)
Judge