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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 596/2015 and CM No.24703/2015 (Stay)**

HAVELLS INDIA LTD

..... Appellant

Represented by: Mr.Chander M.Lall, Mr.Sudeep
Chatterjee and Ms.Nancy Roy,
Advocates.

versus

**THE ADVERTISING STANDARDS
COUSEL OF INDIA**

..... Respondent

Represented by: Mr.Balbir Singh, Sr.Advocate
instructed by Ms.Avni Singh
and Mr.A.Baghel, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
22.01.2016

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1. On January 12, 2016 a Bench presided over by Pradeep Nandrajog, J.
had disposed of FAO (OS) No.597/2015 recording as under: -

1. The appellant's grievance is two-fold. Firstly that the learned Single Judge who had appeared as a counsel, albeit in an unconnected matter against the appellant, having recused in another matter in which the appellant was a party ought to have recused. Secondly against the merits of the reason given declining ad-interim ex-parte stay.

2. As regards the first grievance, learned counsel for the respondent fairly states that she has nothing to say because it relates to the propriety of the order passed by the learned Single Judge in the absence of the respondent.

3. *In our opinion once the learned Single Judge had recused in another matter for the reason as a counsel he had appeared against the appellant, albeit in some other matter, recusal was warranted even in the instant suit because the reason for the recusal in the first was the same as in the second.*

4. *On merits we find that the predecessor Bench while issuing notice has recorded prima-facie reasons as to why ex-parte ad-interim injunction was warranted followed by the ad-interim injunction being granted as also Local Commissioner appointed.*

5. *We dispose of the appeal with consent of parties recording that the reasons given by the Division Bench in the ex-parte ad-interim order dated October 29, 2015 would be transposed as the reasons for grant of an ex-parte ad-interim order in suit and the respondents (impleaded as defendants) in the suit would be entitled to take all pleas in the written statement and the opposition to the confirmation of the same.*

6. *Uninfluenced by the ex-parte ad-interim view taken by the Predecessor Bench, which needless to state was in the absence of the respondents, the learned Single Judge would decide IA No.22361/2015, which application has been listed by the learned Single Judge for consideration on February 24, 2016. Declining ex-parte ad-interim stay the learned Judge has simply issued notice.*

7. *The ex-parte ad-interim order passed by the predecessor Division Bench on October 29, 2015 shall continue till disposal of IA No.22361/2015. The learned Judge In-charge Original Side would mark the suit to some other Bench.*

8. *No costs.*

2. Issue concerning recusal by the learned Single Judge is same as in the instant case.
3. With consent of parties we dispose of the appeal directing the Registry to place the file of CS (OS) No.3187/2015 before the learned Judge In-charge on the Original Side of this Court for assignment of the suit to another Court, other than the one which passed the order dated October 19, 2015.
4. Since I.A.No.22367/2015 is still pending adjudication in the suit we simply observe that the learned Judge in whose Court the suit would be transferred would deal with the issue of interim injunction uninfluenced by any observation made in the order dated October 19, 2015 declining ad-interim stay to the appellant.
5. We note that summons in the suit have been issued returnable for February 24, 2016. I.A.No.22367/2015 is also listed on the same date.
6. Taking cognizance of this appeal, on October 20, 2015, while issuing notice the Roster Bench then had stayed the operation of the communication dated September 16, 2015 sent by the respondent to the appellant. The interim order was continued on the next date i.e. November 23, 2015. It extends till today.
7. Written statement is stated to have been filed by the respondent (the sole defendant in the suit). Since record of the suit is available with us we find that the written statement is not on record. Learned counsel would take steps to bring the written statement on record.

8. Replication if any desired to be filed would be filed by the appellant within a week from today.
9. If the written statement has been filed beyond 30 days of summons being served in the suit we condone the delay in filing the written statement which may be taken on record.
10. We prepone listing of the suit directing that it would be listed for directions before the learned Single Judge on February 02, 2016.
11. Interim order granted by the Division Bench is extended till February 02, 2016.
12. Appeal is disposed of.
13. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 22, 2016
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