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

+ LPA 8/2016

SPORTS & LEISURE APPAREL LTD

..... Appellant

Represented by: Mr.Krishnendu Datta, Advocate with
Ms.Niti Arora, Advocate

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Represented by: Mr.Sanjay Poddar, Sr.Advocate
instructed by Mr.Mukesh Gupta,
Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **06.01.2016**

CM No.359/2016

Allowed subject to just exceptions.

LPA No.8/2016

1. Aggrieved by the action of the respondent in threatening to dismantle, what was claimed by the respondent to be a hoarding but asserted to be a signage displaying the appellant's trade name, the appellant filed a writ petition, which was registered as WP(C)No.5946/2015, praying as under:-

(a) Restrain the respondent authority from taking any coercive action including removal, dismantling, spoiling, reducing in size, defacing, cutting etc. in respect of the display made by the petitioner at its outlet at E-1, South

Extension Part II, New Delhi – 110049 and declare the proposed action of removal of the said display by the respondent authority as illegal;

(b) Declare that the said display made by the petitioner at its outlet at E-1, South Extension Part II, New Delhi-110049 does not need any written permission or in the alternative, direct the respondent authority to process the formal application seeking permission for making the said display in accordance with law and grant the requisite permission; and

(c) Pass any other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. Of the various grounds on which the writ petition was filed, one was that the appellant did not require any permission to display the, what was called by the appellant to be a signage and by the respondent a hoarding.

3. Thus, at core would be the issue: Whether what was displayed by the appellant was a hoarding or a signage.

4. Taking cognizance of the writ petition and issuing notice the learned Single Judge granted an interim stay to the appellant.

5. By way of abundant precaution, should it be ultimately held that what was displayed by the appellant was a hoarding and not a signage, appellant applied for permission to display the hoarding/signage and this necessitated the consideration of the application under the outdoor advertisement policy of the respondent.

6. The application being rejected the appellant filed CM No.23487/2015 praying to amend the writ petition and incorporate the

subsequent events and while doing so laying a challenge to the rejection.

7. The application was disposed of granting liberty to the appellant to seek appropriate legal remedy, resulting in the appellant filing another writ petition registered as WP(C)No.10535/2015 in which the prayer made is as under:-

(a) Quash/set aside decision/order conveyed to the petitioner vide letter/communication dated 14.07.2015 bearing No.D/ADVT./AC (Enf.)/2015-16/631 issued by the respondent under the signatures of Asst. Commissioner, ADVT.DEPT. (Enf. Cell)”;

(b) Direct the Respondent authority to process the formal application dated 06.06.2015 of the petitioner seeking permission for making the said display in accordance with law and accordingly grant permission; and

(c) Pass any other and further order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

8. Inter-alia, pleading in WP(C)No.10535/2015 that what was displayed by the appellant was not covered by the outdoor advertisement policy further grounds were raised concerning the communication dated July 14, 2015 rejecting appellant's request for being permitted to display the hoarding (on the assumption that the signage was a hoarding).

9. Vide impugned order dated December 04, 2015 WP(C)No.5946/2015 has been dismissed by the learned Single Judge on the reasoning that the issue would be decided in WP(C)No.10535/2015.

10. The grievance of the appellant is technically correct that the two writ petitions ought not to have been de-linked and decided together. The reason being that the substantive issue in WP(C)No.5946/2015 was :

Whether what was displayed by the appellant was an in-house signage or a hoarding. Depending upon the decision would be the fate of what was displayed.

11. The second writ petition while embracing said question, raised other issues as well.

12. Rather than to set aside the impugned order and restore WP(C)No.5946/2015, for the reason the scope of the subsequent writ petition embraces the span of WP(C)No.10535/2015 as well, we dispose of the appeal directing as under:-

- (i) While deciding WP(C)No.10535/2015 file of WP(C)No.5946/2015 would be sent by the Registry as a tagged filed.
- (ii) Parties would be permitted to rely upon the pleadings in WP(C)No.5946/2015 while arguing WP(C)No.10535/2015. This direction has been issued to obviate the course of further pleadings to be made in WP(C)No.10535/2015 by incorporating such pleadings and grounds which were urged in WP(C)No.5946/2015 but have not been pleaded in WP(C)No.10535/2015. Additional reason would be that WP(C)No.10535/2015 was occasioned due to subsequent events transpiring, and the cause of action concerning the original events survived.
- (iii) In view of the fact that the appellant had a interim stay in its favour in WP(C)No.5946/2015 which got vacated due to the writ petition being dismissed, the respondent has removed the in-house signage/hoarding, WP(C)No.10535/2015 would be

decided by the learned Single Judge not on the next date of hearing fixed which is February 05, 2016 but on the date fixed by us.

13. WP(C)No.10535/2015 would now be listed for hearing before learned Single Judge on January 08, 2016.

14. No costs.

CM No.358/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 06, 2016

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