

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No. 113 OF 2014

Sujata Farms Pvt. Ltd.

... Applicant

Vs.

Girivan Security and Maintenance

Co. Ltd. & Ors.

... Respondents

Ms. Manjiri S. Parasnis a/w. Mr. Sagar Bhirange, Advocate for the applicant.

Mr. S.S. Kanetkar, Advocate for respondent nos. 1 and 3.

Mr. Parag Vyas, Advocate for respondent No. 10/UOI.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 30th June, 2017.

P.C.:

This Civil Revision Application is directed against the order dated 22nd January, 2013 passed by the District Judge-4, Pune thereby rejecting the Application Exhibit 43 preferred by the plaintiff to pass judgment as per Order 12 Rule 6 of the Code of Civil Procedure.

2. The applicant/original plaintiff has filed the suit under Trade Marks Act against the defendants to restrain permanently from using registered trade mark "GIRIVAN" of the applicant/plaintiff. The contesting defendant nos. 1 to 3 have filed written statement and they have accepted in the written statement that "GIRIVAN" is the

trade mark name of the plaintiff. Therefore, the plaintiff moved the Application Exhibit 43, however, the said Application was rejected by the learned trial Judge that it is not a case to pass judgment and decree the suit under Order 12 Rule 6 of the CPC.

3. The learned counsel for the applicant has submitted that one such admission is given by the defendants in respect of use of trade mark that it is originally the trade mark of the plaintiff, then nothing remains for the defence and the suit can be decreed on admission. She has further pointed out that whatever further reliefs have asked are of consequential and the defendant in fact want to change their company name/trade mark "GIRIVAN" and substituted as "TAPOVAN". She further submitted that the relief of the accounts so far as defendants have used the name of "GIRIVAN" for their company, thus accounts is a matter of calculation by the Executive Court and that relief can be granted while decreeing the suit under Order 12 Rule 6 of CPC. She submitted that the findings given by the learned trial Judge is erroneous and be set aside.

4. The learned counsel for the respondent nos. 1 and 3 opposed this Civil Revision Application and supported the order passed by the trial Court.

5. Under Order 12 Rule 6 of the CPC, the suit can be disposed of/decreed on the basis of admissions. The provision enables the trial Court to consider the admissions of the defendants and on the basis of those admissions if it is possible to decree the suit, then it is to be done at that stage and the suit can be decided at the earliest. However, the word used in the said Rule is “may”. It is not mandatory for the Court to always invoke Rule 6 Order 12 of CPC. It all depends on the facts of case so also the requirement of the evidence on the basis of issues involved and are to be adjudicated. On perusal of the impugned order passed by the learned trial Judge, the learned Judge has considered all the prayers of the plaintiff/applicant, given the reasoning and also mentioned that these admissions are not sufficient to adjudicate upon all the reliefs as prayed. The learned trial Judge has also considered other contentions raised by the defendants in respect of other reliefs especially in respect of business and accounts. The order passed by the learned trial Judge is well-reasoned and nothing can be faulted with the order. Hence, Civil Revision Application is dismissed.

(MRIDULA BHATKAR, J.)