

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL APPEAL NO.158 OF 2017
IN
CHAMBER SUMMONS NO.763 OF 2012
IN
SUIT NO.2846 OF 2011

M.P. Beer Products Pvt. Ltd.

.... Appellant
(Ori. Defendant)

Vs.

SabMiller India Limited
(formerly known as SKOL Breweries
Ltd)

.... Respondent
(Ori. Plaintiff)

Mr. S.J. Khera with Ms Lavina Khera for the Appellant.
Mr. Himanshu Kane with Mr. Nikhil Sharma i/by W.S.
Kane & Co. for the Respondent.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : DECEMBER 15, 2017

P.C:

1. The order under challenge is passed on a Chamber Summons seeking inspection of documents.
2. The Chamber Summons was moved by the original

defendant to the Suit, the appellant before us. The learned Judge has referred to the prayer in the Chamber Summons. The appellant before us (original defendant) gives a schedule of the documents of which he sought inspection. The learned Judge has, in a detailed order, discussed as to how inspection of some of the documents was granted but the appellant/defendant was not satisfied with the same.

3. Amongst others, the contentions before the learned single Judge and reiterated before us are that the Suit by the respondent/plaintiff must fail because they have not produced the Board's Resolution authorising them to institute and file the Suit. Secondly, there are no invoices which would evidence sale of the product or the goods which are the subject-matter of the mark and in relation to which the relief of infringement/passing off is claimed.

4. After having heard Mr. Khara at some length and perusing the order under challenge, we are of the opinion that irrespective of the finding by the learned single Judge at this

interlocutory stage, there is absolutely no prejudice caused to the appellant/defendant. The Suit is yet to go to trial. All that has been done by the respondent/plaintiff is to move an application seeking interim injunction. In defence to that and for proper preparation thereof the defendant requires certain documents and to be inspected by them. If the documents, as inspected, do not meet the required standards and norms prescribed by law or no relief can be claimed for non-production of certain vital and crucial documents, then, irrespective of the observations in the impugned order, the appellant/defendant can contend that no relief can be granted in favour of the respondent/plaintiff on their Notice of Motion for interim injunction. We do not think any of such arguments and defences of the appellant/defendant are prejudiced by the order under challenge, refusing the relief prayed for in the Chamber Summons. We clarify once again that it would be open for the appellant/defendant to raise all permissible contentions in the interim application. With this clarification, we need not entertain this appeal. It is disposed of.

5. By this order we do not conclude much less prejudice the plaintiff in any manner. The plaintiff can always contend that inspection of all the documents relied upon by them has been granted and the suit cannot fail on any technical ground. Such contentions of the respondent/plaintiff are kept open.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)