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

+ CM(M) 366/2017

JANARDAN RASAD SINGH ANR. Petitioner

Through Mr.Tushar Singh, Advocate

versus

M/S. RSPL LTD Respondent

Through Mr.Abhishek Vikram, Advocate

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **31.03.2017**

CM No.12891/2017 (*exemption*)

Allowed subject to all just exceptions.

CM(M)366/2017 & CM No.12890/2017 (*stay*)

1. By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 2.3.2017 to the extent directions have been given to the petitioners to remain present on the next date of hearing.

2. I may note that connected matter being CM(M)365/2017 titled *Manoj R.Chhote and Another vs. R.S.P.L.Limited* seeking the same relief as in the present petition for a different set of petitioners has been heard and disposed of by me yesterday i.e. on 30.3.2017.

3. I have narrated the background facts of the present case in the said judgment dated 30.3.2017 as follows:-

“2. The respondent filed a suit under sections 134 and 135 of the Trade Marks Act, 1999 stating that the respondent is engaged in the business of manufacturing and marketing of

various products adopting the trademark Ghari (Ghadi) alongwith a device ghari/watch/clock. It is stated that the respondent's trademark is registered in class 30 and also in several other classes in India. It was stated in the plaint that the defendant in the suit, namely M/s.Vedanta Tea Agro Industries is engaged in the manufacture of tea and related goods which are included in class 30 and that the defendants in the suit have adopted the trademark Ghadi of the respondents.

3.The trial court by its order dated 30.8.2016 apart from other reliefs appointed Shri Love Deep Gaur, Advocate as the Local Commissioner to inspect the premises of the defendant in the suit and search and seize all the goods with the infringing trademark. The Local Commissioner was also to sign account books, ledger, cash register etc. Other detailed directions are also given to the Local Commissioner.

4. After having visited the office of the defendant in the suit, the Local Commissioner has filed his report. As per the report dated 21.10.2016 the Local Commissioner alongwith a representative of the respondent Shri Manoj Kumar Singh and with police protection provided by SHO Dhanbad, Police Station had visited the premises of M/s.Vedanta Tea Agro Industries. There he met Shri Janardan Prasad Singh who had introduced himself as the father of the owner Shri Pawan. The Local Commissioner has also carried out an inspection and search of the premises. The infringing products were seized, sealed and after making an inventory were handed over to Shri Manoj Kumar Singh representative of the respondent on superdari.

5. It appears that subsequently the son of the defendant /Shri Janardan Prasad Singh has filed a criminal complaint against the Directors of the respondent, namely, Shri Murlidhar Gyanchandani and his two sons Rohit Gyanchandani and Shri Rahul Gyanchandani. In addition, the complaint also mentions other persons including Shri

Manoj Kumar Singh, Allegations in the complaint are that the same persons at the behest of the accused have barged into the premises of the complainant without showing any court order and they have done videography. They are also said to have destroyed design of tea and wrappers worth Rs.20,000/- to Rs.25,000/- and have left the premises. Hence, it was claimed that the accused have conspired together and without showing any court order have entered into the office of the complainant and destroyed the goods. Based on the said complaint the court of Chief Judicial Magistrate, Dhanbad by a non speaking order has forwarded the complaint to officer-in-charge, Police Station Dhanbad under section 156(3) Cr.PC for instituting a case. The concerned police station has now registered an FIR under section 341/379/448/419/420/500/504/120-B IPC.

6. Notices were received by the said accused from the police. It is then that the respondent has filed an application for reference to the High Court under section 15(2) of the Contempt of Courts Act for initiating criminal contempt. As per the said application respondents have pointed out that a perusal of the report of the Local Commissioner would show that the commission has been executed only after a copy of the order was handed over to Shri Janardan Prasad Singh who has acknowledged receipt of copy. The entire commission was carried out in the presence of the police provided by concerned SHO of Dhanbad Police Station. The complaint has now been got initiated by Shri Ravi Kumar complainant-cum- proprietor Denn Jorden, son of Shri Janardan Prasad Singh. The respondent further submits that it is clear that the act of filing a false criminal complaint tantamount to obstructing the process of judicial proceedings and amounts to criminal contempt hence the application has been filed.”

4. It may be noted that the other petition had been filed by the petitioners seeking the same relief. The petitioner therein were SSP Dhanbad and SHO

Dhanbad, Police Station. The present petition is, however, filed by Shri Janardan Prasad Singh and Shri Ravi Kumar the complainant of the criminal complaint.

5. In my judgment dated 30.3.2017 I have already concluded as follows:-

“10. Having seen the record of the case one cannot help coming to a prima facie conclusion that the criminal complaint has been instituted by the defendants in the suit prima facie only as a counter blast to the Local Commission carried out pursuant to orders of the trial court dated 30.8.2016....”

6. I may note that in the application the allegations against the petitioners herein is far more serious as compared to the police officers. In view of my prima facie finding which I have already noted in the judgment dated 30.3.2017, in my opinion, there are no reasons to interfere in the impugned order. However, it would always be open to the petitioners to approach the trial court for appropriate relief regarding exemption. In case such an application is made it is for the trial court to dispose of the same, as per law.

7. Petition stands dismissed. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

MARCH 31, 2017

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