

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.5149 of 2018

ORDER:

In this revision, filed under Article 227 of the Constitution of India, the petitioner seeks a direction to the II Additional Chief Judge, City Civil Court, Hyderabad to forthwith dispose of I.A.No.798 of 2016 in O.S.No.961 of 2015.

The petitioner herein filed the Suit seeking permanent injunction against respondents 1 and 2 herein for infringement under the Trade Marks Act, and for passing off actions. The 1st respondent herein filed an application, under Order 7 Rule 10 CPC, for return of the plaint on the ground that the Court below lacked territorial jurisdiction to entertain the Suit. This application was filed on 21.03.2016 in I.A.No.798 of 2016. The petitioner herein filed its counter thereto on 28.06.2016, and I.A.No.798 of 2016 was reserved for orders on 21.10.2016. It was, thereafter, reopened and again reserved for orders on 07.12.2016. It was again reopened and again reserved on 07.11.2017. It is the petitioner's case that, though written submissions were filed on 15.11.2017, the I.A. has not been disposed of till date.

While contending that the 1st respondent has filed two other I.As in the year 2018, Sri D.Sudarshan Reddy, Learned Counsel for the 1st respondent, would submit that I.A.No.798 of 2016 may be directed to be disposed of along with the other two I.As filed by the respondents under Section 24 of the Trade Marks Act, and under Order 7 Rule 11 CPC. Both the I.As, referred to by the Learned Counsel for the 1st respondent were filed in 2018, and are awaiting counters to be filed by the petitioner herein. This Court is concerned,

in the present case, only with the question whether failure of the Court below, to pass orders in I.A.No.798 of 2016, for the past more than two years necessitates interference. Since I.A.No.798 of 2016 was filed by the respondents herein for return of the plaint on grounds of lack of territorial jurisdiction, if this I.A were to be allowed in favour of the respondents, it would then be wholly unnecessary for the Court below to pass any orders in the other two I.As filed by the respondents. If, on the other hand, I.A.No.798 of 2016 were to be dismissed by the Court below, it would then be required to adjudicate the other two I.As filed by the respondents. It is wholly unnecessary for this Court to club all the three I.As or to direct the Court below to hear and decide all the three I.As together.

Since I.A.No.798 of 2016 is pending before the Court below for the past two years, I consider it appropriate to direct that I.A.No.798 of 2016 be decided with utmost expedition, and in any event not later than 30.11.2018.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:12.10.2018.

Note:
Issue C.C. by 15.10.2018
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