

LPA no.2346 of 2017 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA no.2346 of 2017 (O&M)

Date of Decision : 21.08.2018

Sidharth Sareen

....Appellant(s)

Versus

VCORR Packers Pvt. Ltd and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE MAHABIR SINGH SINDHU**

Present : Mr.P.K.Jain, Advocate for the appellant

Mr. Rajkumar Modi, respondent no.2- in person

Mr. S.R.Thakur, respondent no.3- in person

MAHESH GROVER, J.(ORAL)

CM no. 5182-LPA of 2017

After hearing learned counsel for the applicant and going through the contents of the application for condonation of delay, the same is hereby allowed. Delay of 3 days in filing the appeal is hereby condoned.

Main case

The present appeal is directed against the order of the learned Single Judge dated 1.11.2017 determining the application under Order 39 Rule 1 and 2 arising out of a civil suit initiated by the appellant with a prayer that his registered patent has been infringed by the present respondents.

One of the primary reasons to decline the injunction was the

fact that suit has remained pending before the Trial Court for as long as 9 years and the application for injunction was decided in 2017. Learned Single Judge was of the opinion that grant of injunction at this stage would be inappropriate considering the long period of time that has elapsed during the pendency of the suit and the decision in the interim application under Order 39 Rule 1 and 2.

We would have no reason to differ with it. Injunction is an intervention by the Court either prohibiting the parties to the litigation to refrain from doing something or mandating them to do a particular act as an interim measure. It largely loses its sting if the suit has progressed considerably during which period the parties to the dispute through their action either perpetuate a wrong which is sought to be enjoined or merely through their conduct make the violation inconsequential or render it insignificant.

If we see the nature of the suit the appellant as a plaintiff had sought to enjoin the respondents from manufacturing the product which he has patented. The defendants/respondents in turn had justified their manufacturing activity on the premise that a similar product stood patented in the favour of Government of India in 1967 itself and consequently the appellant could not justify his plea.

Be that as it may, the stand of the appellant and that of the respondents would have to be tested on the basis of quality evidence that the parties may adduce before the learned Trial Court.

It is not in dispute that both the parties have since concluded their evidence and the suit is ripe for adjudication after the parties address the Court on the issues before it. It would, therefore, be just and appropriate

that we bind the learned Trial Court to decide the suit itself within a period of three months from the date of receipt of the certified copy of this order. We make it clear that neither of the parties would be granted any untoward adjournments and each and every adjournment, if granted shall be supported by a speaking order by the learned Trial Court. We also grant liberty to both the parties to submit their written submissions to the learned Trial Court .

With the aforesaid observations, instant appeal is disposed of.

Nothing said herein shall be construed to be an expression on the merits of the case.

(Mahesh Grover)
Judge

21.08.2018
rekha

(Mahabir Singh Sindhu)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No