

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 12.09.2018

+ LPA 509/2018

FIITJEE LTD

..... Appellant

Through; Mr. Kirti Uppal, Sr. Adv. with
Mr. Mohit Bhandari, Mr. Sandeep
Sharma & Mr. Sarthak Mannan,
Advs.

versus

INDIAN INSTITUTE OF TECHNOLOGY DELHI & ORS

..... Respondents

Through: Mr. Arjun Mitra with Ms. Jaskaran
Kaur, Advs. for R-1.
Mr. Tarun Johri with Mr. Ankur
Gupta, Advs. for DMRC.
Mr. Keshav Sehgal, Adv. for R-3.

+ LPA 527/2018

INDIAN INSTITUTE OF TECHNOLOGY DELHI Appellant

Through: Mr. Arjun Mitra with Ms. Jaskaran
Kaur, Advs.

versus

DELHI METRO RAIL CORPORATION LTD & ORS

..... Respondents

Through: Mr. Tarun Johri with Mr. Ankur
Gupta, Advs. for DMRC.
Mr. Keshav Sehgal, Adv. for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

RAJENDRA MENON, CHIEF JUSTICE (ORAL)

CM APPL. 37149/2018 (exemption) & CM APPL. 37150/2018 (exemption) in LPA 527/2018

Allowed, subject to just exceptions.

Both the applications stand disposed of.

CM APPL. 36022/2018 (delay) in LPA 509/2018
CM APPL. 37148/2018 (delay) in LPA 527/2018

For the reasons stated in the application, delay in filing the appeals is condoned.

Both the applications stand disposed of.

LPA 509/2018 & LPA 527/2018

1. In the matter of a disclaimer directed to be installed or reflected in the advertisement displayed in a particular metro station operated by the Delhi Metro Corporation, namely, the “FIITJEE IIT Metro Station”, the writ petition in question was filed by the Indian Institute of Technology Delhi and it was their case that the metro station is situated outside/or near to the campus of IIT Delhi and the metro station has been named as “FIITJEE IIT Metro Station”, a false impression is being created that FIITJEE has got some association or official relation with IIT.

2. Seeking a restraint order with regard to naming of the metro station or displaying the name of the metro station in the manner done, the writ petition in question was filed. The writ Court by the impugned order passed on 10.07.2018 based on the statement made by the counsel representing the DMRC issued the following direction in Paras 3 and 4 as follows:

“3. The learned counsel appearing for DMRC states that the same has already been done. He has handed over photographs,

which indicate that the said disclaimer has been put up on the hoardings bearing the trade name 'FIITJEE'. It is suggested that the font and size of the said disclaimer should be identical to the font and size in which the trade name FIITJEE is advertised. The learned counsel appearing for DMRC has no objection to this suggestion and states that the same would be implemented. In view of the above statement, it is directed that wherever the brand name FIITJEE has been put up by DMRC, it shall also put up a disclaimer – "FIITJEE is not connected or associated with any IIT".

4. It is clarified that this order would not preclude the petitioner from instituting any action with regard to use of the trade name FIITJEE as being deceptively similar to the acronym, IIT. It is further clarified that this order is without prejudice to any rights and contentions of respondent nos.2 & 3 as well."

3. Thereafter, a Review Petition was filed by FIITJEE and the same was dismissed by the learned writ Court by order dated 10.08.2018. Challenging these orders, both these appeals have been filed by Indian Institute of Technology Delhi and FIITJEE.

4. Having heard learned counsel for the parties, we are of the considered view that taking note of the totality of facts and circumstances and the submissions made by the parties, the directions as are reproduced hereinabove and contained in Paras 3 and 4 of the impugned order dated 10.07.2018 has been passed by the learned writ Court. The discretion exercised by the learned writ Court under Article 226 of the Constitution of India in the facts and circumstances of the case, cannot be termed as erroneous, perverse or illegal to such an extent that the interference into the matter is called for now in these appeals under Clause 10 of the Letters Patent.

5. The learned writ Court has issued necessary directions to ensure that any misapprehension or misgiving with regard to FIITJEE being associated in any manner with IIT Delhi is taken away and the disclaimer is directed to be displayed or exhibited in the metro station in the manner indicated, this in our view, meets the ends of justice with regard to the issue in question. Therefore, we see no reason to make any indulgence into the matter. The proper discretion has been exercised by the learned writ Court in the matter and no interference by this Court is called for.

6. Both the appeals are dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

SEPTEMBER 12, 2018

kks