

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Amk

COMMERCIAL APPEAL (L) NO. 343 OF 2019
IN
NOTICE OF MOTION (L) NO. 1074 OF 2019
IN
COMMERCIAL IP SUIT (L) NO. 504 OF 2019

Tetra Queens Distilleries and Breweries

Pvt. Ltd.

.. Appellant

Vs.

Pernod Ricard India Pvt. Ltd. & Ors.

.. Respondents

Mr. Hiren Kamod a/w. Mr. Vaibhav Keni, Mr. Sumeet Rane i/b Legasis Partners for the Appellant.

Mr. V. R. Dhond, Sr. Advocate a/w. Mr. Hemant Singh, Mr. Anees Patel for Respondent No.1.

Mr. Sagar Talekar for Respondent Nos.2 & 3.

Ms. M. M. Raut, Section Officer from Court Receiver present.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.

DATE : 16th JULY, 2019.

P. C. :

1. Heard learned Counsel for the parties.
2. The Respondents filed a suit pleading that it was in the trade of manufacturing and marketing alcoholic products. That it was the registered propriety of trade marks ROYAL STAG, ROYAL STAG BARREL SELECT and SWIRL RIBBON. Alleging slavish imitation in the layout of the artistic work comprising the label and the carton by the

1st Defendant, suit for injunction was filed. Defendant Nos.2 and 3 were impleaded on the plea that they were acting on behalf of the 1st Defendant to market the product of the 1st Defendant. Needless to state that product sold by the 1st Defendant is an alcoholic product.

3. Listed for admission before the learned Single Judge along with Notice of Motion seeking interim relief on 24.04.2019, the learned Single judge granted ex parte ad-interim relief in terms of prayer Clauses (a) to (d) of the Notice of Motion. The next date fixed was 30.04.2019.

4. The Appellant appeared on said date, and as recorded in the order dated 30.04.2019, sought a long date. The Notice of Motion was accordingly directed to be listed on 18.06.2019. The Notice of Motion and the Suit were not listed in the Court on 18.06.2019. By the said date the Appellant had not filed the written statement or reply to the Notice of Motion.

5. Reply to the Notice of Motion was filed on 27.06.2019. On 28.06.2019 a praecipe was filed seeking orders from the learned Single judge to list the Notice of Motion on a short date. On the praecipe the learned Judge directed that the Notice of Motion (L) No. 1074 of 2019 would be taken up for hearing on 29.07.2019. The grievance of the Appellant is to the date 29.07.2019 being fixed on the praecipe filed on 20.06.2019.

6. The Appellant seeks legal justification by relying upon the mandate of the legislature requiring application seeking grant of injunction in which ex parte ad-interim injunction is issued within a month.

7. We need not quibble with the submission of the Respondents that

the Appellant itself sought for a long adjournment on 30.04.2019, for the reason an endeavour ought to be made to decide the Notice of Motion as soon as possible keeping in view the opposition.

8. The Appeal being listed for the first time today before the Division Bench, we note that till 29.07.2019 there are only eight working days.

9. Without commenting upon the merits of the rival version of the parties, we dispose of the Appeal hoping and expecting that on 29.07.2019 the learned Single Judge would accord a hearing to the parties and decide the Notice of Motion in which the ex-parte ad-interim relief has been granted.

10. Finding that the Respondents have not filed a rejoinder to the reply filed by the Appellant to the Notice of Motion we take on record the statement made by the learned Counsel for the Respondents that rejoinder shall be filed latest by 25.07.2019. Parties also undertake to file written submission with case laws cited before the learned Single Judge to facilitate an expeditious hearing.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]