

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

O.S.A.No.483 of 2018

Ashok Leyland Limited,
No.1, Sardar Patel Road,
Guindy, Chennai - 32 rep. by
Authorised Signatory D.Santhi ... Appellant

Vs

Captain Tractors Private Limited,
106, Royal Complex,
Near Bhurkhana Dhebar Road,
Rajkot, Gujarat - 360 002. ... Respondent

Appeal preferred under Section 13(1) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 r/w Clause 15 of Letters Patent, against the order dated 01.11.2018 made in A.No.6799 of 2018 in C.S. (Comm. Div.) No.468 of 2018.

For Appellant .. Mr.P.S.Raman, Sr. Counsel
for Mr.M.S.Bharath

For Respondent .. Mr.AR.L.Sundaresan,
Sr. Counsel
for Mr.A.K.Balaji and Nithya

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

Aggrieved against the order dated 01.11.2018 made in A.No.6799 of 2018 in C.S. (Comm. Div.) No.468 of 2018, the present appeal has been filed.

2.The appellant is the plaintiff in the suit. The suit has been filed before this Court in C.S.N.468 of 2018 for passing off on the premise that the appellant's mark of 'CAPTAIN' is being used by the respondent. It appears that the respondent is

a registered mark holder. This registration is for the mini tractor. The appellant's mark is not with respect to the mini tractor as the appellant manufactures heavy vehicles.

3.Learned single Judge revoked the leave on the premise that the website of the respondent is not interactive. However, the stand of the respondent is that as of now, there is no move to manufacture heavy vehicles under the name 'CAPTAIN' in the State of Tamil Nadu.

4.Heard Mr.P.S.Raman, learned senior counsel appearing for the appellant and Mr.AR.L.Sundaresan, learned senior counsel appearing for the respondent.

5.From the contentions raised by both sides, we are of the view that the issue of territorial jurisdiction to maintain the suit need not be gone into in this case for the simple reason that there is no cause of action that has arisen as of now, particularly, in view of the stand taken by the respondent that as of now, no heavy vehicles are being manufactured in the name 'CAPTAIN'. We may remind ourselves that the suit is one for passing off.

6.In such view of the matter, while recording the stand taken by the respondent, the Original Side Appeal stands dismissed. The issue of territorial jurisdiction qua website is left open. No costs.

7.We make it clear that the observation made by us in this appeal will not have any bearing on the pending suit filed by the respondent in the State of Gujarat.

Sd/-
Asst.Registrar (CS III)

/true copy/ सत्यमेव जयते

Sub Asst. Registrar

mmi
To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1 cc to M/s.M.S.Bharath Advocate sr5052

O.S.A.No.483 of 2018

aa17/03/2020