

AMRINDER SINGH

.....Appellant

Versus

M.B MACHINERY CORPORATION

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Sham Lal Bhalla, Advocate for the appellant.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The appellant challenges order dated 04.09.2020 passed by the learned Additional District Judge, Ludhiana.

Brief facts necessary for adjudication of the mater are that the respondent – plaintiff filed a suit for permanent injunction restraining infringement of design, unfair competition, damages/rendition of accounts etc. A copy of the suit has been attached as Annexure A1. Learned Additional District Judge while issuing notice of the suit to the present appellant– defendant,vide order dated 04.09.2020, restrained the present appellant from “manufacturing, assembling, offering for sale,advertising, supplying, leasing, selling or in any manner dealing with stand for sewing machine and wheel for sewing machine of the respondent – plaintiff registered design (bearing design No. 301695 and 301696) so as to result in infringement of the registered design of the respondent – plaintiff, till further orders.”

Learned counsel for the appellant argues that the appellant has been engaged in the process of manufacturing the product since a number of years and definitely much prior to the registration obtained by the plaintiff – respondent on

25.01.2018, which is liable to be cancelled in terms of Section 19 of the Design Act, 2000. Learned trial Court, it is submitted, has passed an ex parte order against the appellant without even affording any opportunity of hearing to him. The entire business of the appellant has, thus, come to a stand-still. It is, thus, prayed that this appeal be allowed.

Heard, learned counsel for the appellant.

It is not in dispute that notice of the suit was issued to the present appellant for 11.09.2020 and it is informed that the matter is listed before the learned Additional District Judge, Ludhiana for 27.11.2020. The appellant is yet to appear before the learned Additional District Judge, Ludhiana.

At this stage, I do not consider it appropriate to express any opinion on the merits of the case. The appellant is at liberty to appear before the learned trial Court and file reply to the application under Order 39 Rule 1 and 2 CPC, which it is stated is yet to be finally disposed of/decided. Needless to say, learned Additional District Judge shall ensure expeditious final disposal of the application under Order 39 Rule 1 and 2 CPC, after considering the entire facts and circumstances as well as the stand of all the parties, keeping in view the impact, which may be there on the appellant.

Accordingly, present petition is disposed of.

November 26, 2020
Rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No