

Sr. No.105

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

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In Virtual Court

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TA No.94 of 2021 (O&M)
Date of decision : 12.02.2021

Piccadily Agro Industries Limited
Vs.

.....Petitioner

Rakesh Kumar and Another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Ms. Divya Sharma, Advocate for the petitioner.

Rajbir Sehrawat, J. (Oral)

This transfer application is filed under Section 24 CPC for transfer of the Civil Suit No.2 of 2017 filed by the petitioner for permanent injunction under Section 27 read with Sections 134 and 135 of the Trade Marks Act, 1999 and Sections 51 and 55 of the Copyright Act, 1957 for infringement of copyright, passing off, rendition of accounts of profits, delivery up, etc. titled as “Piccadily Agro Industries Limited vs. Rakesh Kumar & Another” pending in the Court of Ld. Additional District Judge, Sonapat to a Court of competent jurisdiction at Ambala, Haryana in the interest of justice, equity and fair play.

The main argument of counsel for the petitioner is that since the petitioner has filed civil suits qua infringement of its label of liquor at different places, therefore, all the suits deserve to be transferred at one place. Hence, the present suit be transferred to Ambala. The submission of the counsel for the petitioner is that if the suits are proceeded with at different places by different Courts, then there is possibility of conflicting judgments coming from different Courts regarding the same

issue. It is also submitted by the counsel that because of the pendency of the suits at various places, the petitioner has to go to different places to conduct the cases, which results in insurmountable inconvenience to the petitioner. Hence, all the suits be ordered to be conducted at one place.

Having heard, the counsel for the petitioner and having perused the file, this Court does not find any substance in the argument raised by the counsel for the petitioner. Undisputedly, the suits which have been preferred by the petitioner at different places, including the present suit, regarding infringement of label of the petitioner; involved different parties. The facts relating to alleged infringement are also altogether different in all the suits. In fact, there is nothing common between the said suits except the fact that the petitioner happens to be the plaintiff in all the cases and the assertion is regarding violation of his trademark. Beyond that, there is no similarity between the suits. Hence, there is no ground to transfer the suits at one place.

Although, the counsel for the petitioner has submitted that conducting of the suits at different places may result in conflicting judgments by various Courts qua the same issue, however, even this argument is without any substance. Since the facts involved in the cases are altogether different, therefore, different and separate evidence has to be led in all the suits. Any finding to be recorded in the suits would be qua alleged infringement of the label by different parties and qua different style of label of the defendants in different suits. Therefore, the judgments and decrees to be passed in suits have to be, necessarily, different in their content and findings in each of these suits. The Trial Court by any means, cannot decide all the suits filed by the petitioner/plaintiff by a common judgment. Hence,

the issue of conflicting judgements being delivered by different courts, as is submitted by the counsel for the petitioner, is totally irrelevant in the matter. By any means, the judgements to be delivered have to be different in all the suits, though the petitioner may understand the same to be conflicting ones. However, the perception of the petitioner does not necessarily represents the legal situation.

Although, the counsel for the petitioner has also submitted that since the suits are pending at different places, therefore, the petitioner would be facing difficulty in conducting these cases, however, this Court does not find any substance in this argument of the petitioner as well. All the suits including the one involved in the present petition have been filed by the petitioner. It is the choosing of the petitioner to file two different suits at different places. These suits have to be tried by the respective Courts of competent jurisdiction. Therefore, merely for the convenience of the petitioner, the suits cannot be brought at one place. Otherwise also, if the suits are brought at one place keeping in view only the convenience of the petitioner, that would result in unfair inconvenience to different defendants in the suit who, then, would be required to attend the Courts at one place of choosing of the petitioner. The Court cannot put the defendants in the suit to inconvenience just for the sake of convenience of the petitioner.

In view of the above, finding no merit in the present petition, the same is dismissed.

12.02.2021

VY

(RAJBIR SEHRAWAT)
JUDGE

*Whether Speaking/Reasoned : Yes/No**Whether Reportable : Yes/No*