

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 21317 of 2020 (O&M)

Date of Decision:05.02.2021

Satpaul Mittal

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Saurabh Kapoor, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG., Punjab.

LISA GILL, J(Oral).

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

This petition has been filed for directions to respondents no.2 to 8 to refrain from interfering in the fundamental right of the petitioner to carry on with his occupation, trade and business.

It is contended that the petitioner deals in bakery products particularly rusks under the name and style of M/s SPM Food Products. Petitioner is duly registered under the Trade Marks Act, 1999 with the trade mark 'SPMGOPAL'. It is further submitted that respondent no.9, also dealt with bakery products with the registered trade mark 'GOPAL' for her firm but had not sought renewal after February 2012. It is alleged that the respondents are unnecessarily and illegally conducting raids on the petitioner's premises and are not permitting the petitioner to continue with his trade and occupation. FIR No. 61, dated 01.07.2020, under Section 420 IPC and 103 of the Trade Marks Act, 1999, at Police Station Singh Bhagwantpur, District Rupnagar, is stated to be illegally registered against the petitioner at the instance of respondent no.9. The dispute, it is submitted

is clearly of civil nature and the police authorities should refrain from interfering in such affairs. It is thus prayed that this petition be allowed.

Learned counsel for the respondent-State while referring to the reply dated 16.12.2020 filed on behalf of respondents no.4 and 8 submits that final report/challan under Section 173 Cr.P.C., stands presented on 21.10.2020 before the Court of competent jurisdiction in FIR No. 61 dated 01.07.2020 and is now pending consideration for framing of charge against the petitioner. The petitioner is alleged to have imitated the wrappers of the products manufactured by respondent no.9 and a number of cartons of such goods recovered from his premises. It is thus prayed that this petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

Admittedly, there is a dispute between the petitioner and respondent no.9 with allegations of the petitioner illegally imitating the wrappers of the products manufactured by respondent no.9 under the trade mark 'GOPAL'. Petitioner claims to be using the trade mark 'SPMGOPAL' and not 'GOPAL' with the counter allegation that 'SPM' is written in a very small font and the wrappers are otherwise similar. It is further not in dispute that in the civil suit filed by respondent no.9, petitioner's application under Order 7 Rule 11 CPC was allowed and plaint was returned by the learned Civil Judge (Jr. Division), Rupnagar on 17.03.2020 to be filed before the Court of competent jurisdiction. It is fairly informed by learned counsel for the petitioner that said petition has now been filed before the learned District Judge, Rupnagar. FIR No. 61 dated 01.07.2020 stands registered against the petitioner and final report/challan under Section 173 Cr.P.C., stands presented as well.

Therefore, in the given facts and circumstances, no interference is called for, at this stage, in exercise of writ jurisdiction under Articles 226 of the Constitution of India. Needless to say, petitioner is at liberty to avail the remedy/remedies as may be available to him in accordance with law.

Writ petition is accordingly dismissed with no order as to cost. It is clarified that there is no expression of opinion on the merits of the matter.

05.02.2021
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No.