

DL. July 22,
20. 2022

F.M.A. 2930 of 2015

M/s. NTC Industries Ltd.

Vs.

M/s. Shanti Guru Tobacco & ors.

The appellant is not represented, nor any accommodation is prayed on its behalf. On the earlier occasion also the appellant was remained unrepresented. However, we propose to decide the question of admission of the appeal on the basis of the materials available on record.

The trial court, by an order dated February 7, 2015, rejected the prayer of the plaintiff/appellant for restraining the defendants/respondents from using the registered trade mark “K F Cool”.

We have gone through the order impugned in detail. The learned trial judge has given adequate reason in not exercising his discretion. Unless the finding is perverse, the appellate court should not interfere with the order under challenge before it. Moreover, we find that the appellant has not made any attempt for admission of the appeal since filing of the appeal.

In view of provisions of Section 34 of the said Act, the present suit is not maintainable. We fully agree with the observations of the trial court in this regard.

In view thereof, the appeal is summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

There will be no order as to costs.

(Soumen Sen, J.)

dns

(Siddhartha Roy Chowdhury, J.)