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A.Nos.2120, 2551 & 2552 of 2022

in

C.S.(Comm.Div.) No.71 of 2022

SENTHILKUMAR RAMAMOORTHY, J

The plaintiff presented three applications for amendment of the
plaint and the affidavit in support of the interlocutory applications.

2. Learned counsel for the applicant/plaintiff submits that the
suit was filed hurriedly so as to seek interim relief. In the plaint, at
paragraph 25, the plaintiff set out the names of eight employees and
alleged that the said employees were previously employed by the
plaintiff and had joined the employment of the defendant, and that the
named employees were instrumental in developing the impugned
software. Learned counsel for the applicant/plaintiff submits that the
names specified in paragraph 25 are incorrect and that the mistake
occurred because they were provided the names of the employees of the
plaintiff who were involved in developing the LMS software instead of
the names of ex-employees of the plaintiff who are currently employed
by the defendant. According to the plaintiff, the names in paragraph 25



should be replaced by the names of three persons mentioned in paragraph 8 of the affidavit in support of A.No.2120 of 2022.

3. Learned counsel further states that the respondent has denied the fact that the said employees were poached. By referring to documents relating to these employees, learned counsel points out that the said documents clearly indicate that all these three persons were previously employed by the plaintiff and are currently employed by the defendant. As regards Mr.Gudapati Gopi, learned counsel points out that he was not employed by CBSI India Private Limited as is evident from the communication dated 02.08.2018 from CBSI India Private Limited. As regards Ms.Lakshmi Parekh, he points out that she was an employee of the applicant/plaintiff for more than 15 years. As regards Mr.Ravindranath Babu Golla, he submits that the admitted position is that he was a former employee of the applicant and a current employee of the defendant. For all these reasons, it is stated that these applications are liable to be allowed.

4. Learned senior counsel for the respondent submits that the allegation in paragraph 25 of the plaint was one of the principal reasons



for the applicant to obtain *ex parte* ad interim orders. He further submitted that the three persons whose names are proposed in substitution for the original eight names were clearly not poached from the applicant/plaintiff and that two of these persons joined the services of the respondent/defendant after having been employed by a different entity. Therefore, it is contended that the very foundation of the suit does not survive. Learned senior counsel further pointed that the prosecution of the suit on the basis of false statements has affected the reputation of the defendant and that the application for perjury was filed in those circumstances.

5. These applications have been presented even before the written statement of the defendant was filed. Without doubt, as contended by learned senior counsel for the respondent, the allegations in paragraph 25 of the plaint were serious allegations and such allegations should not have been made without verifying the veracity thereof. In addition, it is also true that these applications have been filed about 40 days after ad interim orders were passed. However, these amendments do not change the cause of action and considering the stage of the suit, the applications are liable to be allowed. It is clarified, by way



of abundant caution, that no conclusions, tentative or definitive, are recorded with regard to the veracity of the allegations, even as regards the three persons whose names are proposed to be introduced in substitution for the original eight persons.

6. For reasons set out above, A.Nos.2120, 2551 and 2552 of 2022 are allowed. As a consequence, the plaintiff is permitted to carry out the amendments in the plaint and in the affidavit in support of the relevant interlocutory applications on or before 19.07.2022. After carrying out the amendment, the plaintiff is directed to serve a copy of the amended plaint and the amended affidavit on the defendant. Both parties are directed to agree upon and suggest the name of an expert for examination of the source code.

List A.No.1600 of 2022 on 19.07.2022. The interim order granted on 13.04.2022 is extended until then. i

05.07.2022

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