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C.S.No.786 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY**

C.S.No.786 of 2018

M/s.Techbio Solutions
Represented by its Director, Mr.Vishnu
No.2, South Avenue,
A-1, Deju Plaza, Srinagar Colony,
Saidapet, Chennai-600 015.

... Plaintiff

VS.

1. Raja Mehra
Mehra Enterprises
1st Floor, Chopra Building,
NH-22, Kalka-Shimla Building,
Sector-6, Parwanoo Dist, Solan, Himachal Pradesh-172 322.

2. Vijay Mehra, Director,
Agmera Private Limited
Plot No.19(1), Sector 1, Parwanoo,
Solan, Himachal Pradesh-173 220, India.

3. Agmera Private Limited,
Plot no.19(1), Sector 1, Parwanoo,
Solan, Himachal Pradesh-173 220, India

4. AGMA Limited
Gemini Works, Haltwhistle,
Northumberland, NE49, 9HA, United Kingdom.

... Defendants



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PRAYER: Complaint filed under and Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC prayed for Judgment and Decree:-
(a) for a permanent injunction restraining the 1st and 2nd defendant, including their men, agents, servants or anyone claiming under or through them including the third parties claiming under or through them from any manner disturbing the peaceful conduct of Plaintiff's business; (b) direct the defendants 1 to 3 to pay the costs of the suit to the Plaintiff.

For Plaintiffs : Mr.Vaibhav R. Venkatesh for
M/s.Nithyaesh & Vaibhav

For Defendants : Mr.Rahul Balaji for
M/s.R.Parthasarathy for D1 & D2
Mr.M.Velmurugan for D4
No appearance for D3

J U D G M E N T

The suit was filed for a permanent injunction to restrain the first and second defendants from directly or indirectly disturbing the peaceful conduct of the plaintiff's business.

2. The plaintiff states that it entered into a distributorship agreement with the fourth defendant on 26.04.2018. According to the



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plaintiff, the said distributorship agreement was entered into after the fourth defendant terminated the earlier distributorship agreement between the fourth defendant and the first and second defendants.

3. Upon the execution of the distributorship agreement on 26.04.2018, the plaintiff states that it commenced and is carrying on business in terms thereof. However, the plaintiff alleges that the first and second defendants interfered with the conduct of the business by instituting vexatious complaints against the fourth defendant, and by arraying the plaintiff as a party thereto. The plaintiff states that the third defendant is a joint venture between the first and second defendants, on the one hand, and the fourth defendant on the other. In view of disputes relating to such joint venture, it is stated that the plaintiff has been needlessly embroiled in such dispute and that its business has been affected thereby. The plaintiff refers to a lawyer's notice dated 10.05.2018, which was issued by the third defendant, and states that it was unnecessarily drawn into the dispute between the first and second defendants and the fourth defendant.



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4. The plaintiff further states that, on 28.05.2018, a FIR was registered by the Parwanoo Police Station, Solan District, Himachal Pradesh against the fourth defendant/Agma Limited and two UK based Directors based upon the complaint filed by the second defendant. On 15.07.2018, an e-mail was received by the plaintiff from the Parwanoo Police Station under Section 160 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) calling for information. The plaintiff alleges that a member of the plaintiff's staff, namely, Ms.Jayanti Bhaskar, was directed to be present for an inquiry in relation to the complaint and was threatened with arrest unless she went to the police station. The plaintiff also draws reference to a phone call made on 03.08.2018 by the second defendant and one Sourabh Bharadwaj of Mehra Enterprises and states that the said persons threatened the plaintiff and demanded that the plaintiff stop doing business with Agma Limited, U.K. The present suit was filed in the above facts and circumstances.

5. The first and second defendants denied the allegations in the plaint. The said defendants point out that the relief prayed for is extremely wide in scope and ambit and that the plaintiff is endeavouring to prevent the



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first and second defendants from taking lawful recourse to redress grievances. With reference to the complaint lodged in the Parwanoo Police Station, the first and second defendants state that they are entitled to lodge a complaint with the police and that it does not tantamount to interference with the business of the plaintiff if the police summon an employee of the plaintiff for purposes of inquiry. The first and second defendants also state that they are entitled to initiate appropriate legal action against the fourth defendant either in relation to the termination of the distributorship agreement or in relation to the joint venture. The first and second defendants also state that disputes relating to the joint venture are pending before the jurisdictional National Company Law Tribunal. The first and second defendants denied the allegation that a phone call was made by the second defendant on 03.08.2018.

6. The fourth defendant admits that the plaintiff was appointed as a distributor on 26.04.2018 after terminating the distributorship agreement between the fourth defendant and the first and second defendants. The fourth defendant also admits that the distributorship agreement was periodically renewed and is currently in force.



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7. Upon completion of pleadings, the Court framed the following issues on 18.08.2021 and 01.09.2021:

Issues framed on 18.08.2021:

“(i) Whether the plaintiff have a valid agreement with the 4th defendant in respect of distributorship of the 4th defendant's products in India?

(ii) Whether the act of the 1 to 3 defendants serves as an impediment as the plaintiff's distributorship business provided to the 4th defendant?

(iii) Whether the 4th defendant has absolute right entered into any contract with the plaintiff without the consent/knowledge of the defendant 1 to 3?

(iv) Whether the plaintiff is entitled for the relief of injunction as prayed?

(v) What other relief?



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Issue framed on 01.09.2021:

“Whether the act of the defendants 1 to 3 serves as an impediment to the plaintiff's distributorship business entered with the 4th defendant?”

8. The plaintiff examined Mr.Vishnu Raja as PW1 and exhibited nine documents through him, which were marked as Exs.P1 to P9. The first and second defendants examined Mr.Jasdeep Singh as DW1 and exhibited one document, which was marked as Ex.D3. Exs.D1 and D2 were marked by the fourth defendant in course of cross-examination of PW1. Oral submissions were made on behalf of: the plaintiff, by Mr. Vaibhav Venkatesh, learned counsel; the first and second defendants by Mr. Rahul Balaji, learned counsel; and the fourth defendant by Mr. Velmurugan, learned counsel.

Issue No.1 and 3

9. The first issue relates to whether there is a valid agreement as between the fourth defendant and the plaintiff. The third issue relates to



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whether the fourth defendant is entitled to enter into an agreement with the plaintiff without the consent of the first to third defendants. The distributorship agreement was exhibited as Ex.P2 and both the plaintiff and the fourth defendant admitted that the said document was executed on 26.04.2018 and was periodically renewed thereafter. Therefore, there is no dispute that the agreement subsists as on date. The validity of the said document and the right of the fourth defendant to execute the said document without the consent/knowledge of the first to third defendants need not be determined in these proceedings since the document is not assailed in these proceedings. The first and third issues are disposed of in the above terms.

Issue Nos.2, 4 and the Additional issue:-

10. These issues relate to whether the first, second and third defendants have impeded the conduct of the plaintiff's business and whether the plaintiff is entitled to relief in respect thereof. Since these issues are interrelated, they are decided jointly.

11. Learned counsel for the plaintiff focused on the police complaint lodged at the Parwanoo Police Station on 28.05.2018 and, in



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particular, on the inquiry instituted thereafter. He also pointed out that a civil dispute between the first and second defendants and the fourth defendant was given a criminal flavour and that the plaintiff was needlessly drawn into the said dispute and subject to harassment. The second issue on which learned counsel for the plaintiff turned the spotlight on was the phone call on 03.08.2018.

12. As regards the police complaint, learned counsel for the first and defendants submits that the said defendants are entitled to lodge and prosecute a police complaint. With regard to the phone call, he denies that the second defendant made the phone call or threatened the plaintiff with dire consequences unless he halted business with the fourth defendant. Both learned counsel for the plaintiff and the first and second defendants adverted to the oral evidence on these issues.

13. On considering the submissions and the evidence, the first question that arises for consideration is whether the lodging of a police complaint *per se* amounts to interference with the business. The



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unexceptionable position is that the first and second defendants cannot be restrained from lodging a police complaint or from prosecuting the same in accordance with law. As regards the telephone call, while the second defendant denies making such call, the first and second defendants are clearly not entitled to threaten or intimidate the plaintiff with a view to impede, stall or halt the conduct of business under the distributorship agreement. At the same time, it should be recognized that the first and second defendants are entitled to take recourse to lawful measures both in relation to the termination of the distributorship agreement and in relation to the joint venture between the first and second defendants and the fourth defendant. If proceedings are instituted by the first and second defendants in relation to the termination of the distributorship agreement dated 28.03.2018 or in relation to the distributorship agreement dated 26.04.2018, it will be for the receiving court to determine all aspects, including the issue of limitation. It is needless to say that it is open to the plaintiff to raise all objections in relation thereto, if such proceedings are initiated.



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14. In the result, C.S.(Comm. Div) No.786 of 2018 is decreed

on the following terms:

(i) the first and second defendants are restrained from interfering with the plaintiff's conduct of business under the distributorship agreement dated 26.04.2018. This will however not stand in the way of the first and second defendants initiating appropriate legal proceedings in respect thereof, either under civil or criminal law.

(ii) In the circumstances, the parties shall bear their own costs.

12.07.2022

Index : Yes

Internet : Yes

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Plaintiff's witness:

1.Mr.Vishnu Raja : P.W.1

Defendants' witness:

1.Mr.Jasdeep Singh : D.W.1

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Documents exhibited by the Plaintiff:

<i>Sl.No</i>	<i>Exhibits</i>	<i>Date</i>	<i>Particulars of Documents</i>
1.	Ex.P1	20.04.2021	the photocopy of termination distributorship agreement of the 4 th defendant with the 1 st and 2 nd defendant along with latest distributorship agreement
2.	Ex.P2	26.04.2018	The photocopy of Distributorship Agreement between the plaintiff and the 4 th defendant.(Learned counsel for the defendants object to mark the documents)
3.	Ex.P3	10.05.2018	the photocopy of Lawyer's Notice sent by the 3 rd defendant
4.	Ex.P4	23.05.2018	The photocopy of the Reply Notice sent by the 4 th defendant
5.	Ex.P5	28.05.2018	The photocopy of FIR
6.	Ex.P6	15.07.2018	The print out copy of email sent by the Parwanoo Police Station to the plaintiff along with certificate under 65B of Indian Evidence Act, 1872 (Learned counsel for the defendants object to mark the documents)
7.	Ex.P7	13.09.2018	The photocopy of the warrant of arrest against the plaintiff's employee dated 13.09.2018. (Learned counsel for the defendants object to mark the documents)
8.	Ex.P8	17.09.2018	The photocopy of Notice under 160 Cr.P.C. D (learned counsel for the defendants object to mark the documents)
9.	Ex.P9	10.12.2014	The photocopy of Form (C) of Acknowledgment of Registration of Firm dated 10.12.2014.

Documents exhibited by the Defendants:



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<i>Sl. No.</i>	<i>Exhibit</i>	<i>Date</i>	<i>Particulars of Documents</i>
1.	Ex.D1		This is the print out copy of letter sent by 4 th defendant and the plaintiff is marked as Ex.D1.
2.	Ex.D2	20.04.2021	The copy of the letter dated 20.04.2021 is marked as Ex.D2
3.	Ex.D3	11.03.2022	The original Power of Attorney executed by D1 and D2 in favour of the deponent Mr.Jasdeep Singh. This is the only document that I see to mark. (Ex.D3 marked subject to objection of plaintiff)

SKRJ

SENTHILKUMAR RAMAMOORTHY, J



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