

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

109

RFA-1396-2017

Date of decision: 18.07.2022

M/S OSWAL PREMIUM SILK MILLS LTD & ORS ..Appellants

Versus

SWADESHI RAIMENT PVT LTD ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Namit Gautam, Advocate
 for the appellants.

 Mr. Bharat Bir Singh Sobti, Advocate
 for respondent.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of the concurrent findings of fact arrived at by the trial Court, the defendants have filed the present appeal.

The dispute is with regard to the usage of trademark/trade name “OSWAL” and “OSWAL PREMIUM SUITING”. These trademarks originally registered in the name of M/s Arihant Industries Ltd. The plaintiff (respondent) had filed a suit for grant of decree of permanent injunction along with the mandatory injunction restraining the defendants from infringing the trademark and copyright and passing off and also for the rendition of accounts. The plaintiff claims that on the basis of the contract entered into with M/s Arihant Industries Ltd, it is running their mill at Mattewara, as a job and, therefore it is authorized to use the trademark and trade name. It is alleged by the appellant-Company that the defendants have no right to continue using the trademark and trade name referred to above contention made by the respondents.

The defendants contested the suit claiming that by the deed of

assignment executed by M/s Arihant Industries Ltd. on 12.02.2001, they were entitled to use the trademark/trade name for a period of 15 years.

The plaintiff in order to prove its case, produced various documents including a memorandum of understanding signed between the plaintiff and the defendants. As per the memorandum of understanding (MOU) entered into on 25.07.2002, which was reduced into writing on 08.02.2003, the defendants admitted that the aforesaid trademark/trade name have been acquired by the plaintiff for the time being. When Sh. Ajendra Kansal appeared as DW-1, he admitted the presence of his signatures on original Ex.P-10 on its every page. However, he claimed that the same is not in force, at this point of time.

The best case of the defendant is on the basis of deed of assignment, dated 12.02.2001, which was valid for a period of 15 years. It came to an end in the year 2016. Moreover, the memorandum of understanding (MOU) signed between the plaintiff and defendants is admitted. The learned counsel representing the appellant has failed to draw the attention of the Court to any reason which may result in declaring the memorandum of understanding not enforceable.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

July 18th, 2022

(ANIL KSHETARPAL)
JUDGE

Ay

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