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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) (COMM) 153/2020 & CM APPLs.30023-25/2020 &
30354-55/2020**

MITTAL ELECTRONICS

..... Appellant

Through Mr. Jayant Mehta, Sr. Advocate with
Mr. Manish Biala, Mr. Mohan
Vidhani, Mr. Raghavendra M. Bajaj,
Mr. Devesh Ratan, Mr. Ashutosh
Upadhyaya and Mr. Anisha Gupta,
Advocates.

versus

SUJATA HOME APPLIANCES PRIVATE LIMITED & ORS.

..... Respondents

Through Mr. J.Sai.Deepak, Ms. Meenakshi
Ogra, Mr. Vikram Singh, Advocates.

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Date of Decision: 09th February, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

The hearing has been done by way of video conferencing.

1. Present appeal has been filed challenging the order dated 9th September, 2020 passed by learned Single Judge disposing of I.A. No. 1751/2020 filed under Order XXXIX Rules 1 and 2 of the Code of Civil



Procedure, 1908 (in short, ‘CPC’) and I.A. No. 4098/2020 filed under Order XXXIX Rule 4 of CPC in CS (Comm) No. 60/2020.

2. After some arguments, learned senior counsel for the appellant-plaintiff states that the appellant would be satisfied in the event, this Court were to direct the learned Single Judge to expedite the disposal of the suit i.e. CS (Comm) No. 60/2020) and also direct the respondents-defendants to maintain accounts with regard to goods manufactured and sold by them bearing the mark SUJATA.

3. Learned senior counsel for the appellant-plaintiff also states that learned Single Judge has erroneously presumed and concluded that there had been suppression and/or concealment of material facts in the plaint on the part of the appellant-plaintiff.

4. Learned counsel for the respondents-defendants states that the respondents-defendants have no objection to the hearing of the suit being expedited as well as if a direction is issued to the respondents-defendants to maintain accounts with regard to the goods manufactured and sold bearing the mark SUJATA. He, however, states that the finding of the learned Single Judge with regard to the suppression and/or concealment by the appellant-plaintiff was justified.

5. We have heard the learned counsel for the parties at some length. We are of the view that at this stage, in the facts of the present case, the learned Single Judge could not have finally concluded that the appellant-plaintiff had concealed material facts and indulged in clever drafting. The said conclusive findings could have been reached only after a full trial. Consequently, the issue of suppression and/or concealment is left open to be decided after a full trial by the learned Single Judge.

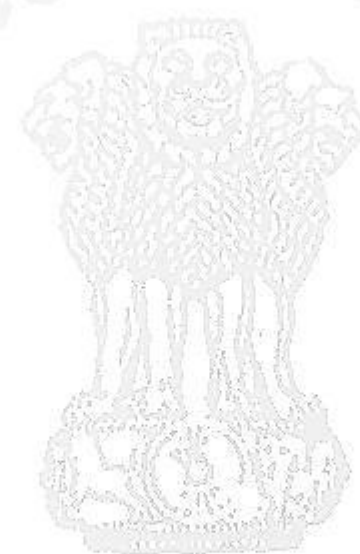


6. As agreed, the present appeal and applications are disposed of with a direction to the learned Single Judge to expedite the hearing of the suit i.e. CS (Comm) No. 60/2020. The respondents-defendants are also directed to maintain and file books of accounts quarterly with regard to the goods manufactured and sold by them bearing the mark 'SUJATA' till the disposal of the suit.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 09, 2022
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