



A.No.157
in C.S.(Comm.Div).No.35 of 2022

A.No.1571 of 2023
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S.SOUNTHAR, J.

This application has been filed by the applicant/plaintiff seeking leave of the Court to file rejoinder to the written statement filed by the respondent/defendant.

2. In the affidavit filed in support of this application, it is averred by the applicant/plaintiff that they filed a suit against the respondent/defendant impugning a disparaging advertisement broadcasted by the defendant showing product of the plaintiff in an objectionable way. The applicant sought for a relief of perpetual injunction and damages against the defendant.

3. The respondent herein filed its written statement.

4. Now, the applicant in order to controvert certain averments made in the written statement filed by the respondent, wants to file a rejoinder statement. It is also averred by the applicant that this Court by order dated 20.04.2022 in O.A.No.106 of 2022 restrained the respondent/defendant from broadcasting the impugned advertisement in Tamil and thereafter, the defendant tweaked a single word in the impugned advertisement and started broadcasting the tweaked advertisement. The applicant/plaintiff wants to include the



subsequent developments in his pleadings by way of rejoinder against the written statement filed by the respondent.

5. The learned counsel for the applicant submitted that if the applicant is not permitted to file the rejoinder in order to controvert the contention of the written statement and also to bring on record the subsequent developments that had taken place subsequent to filing of the suit, the applicant would be irreparable loss and cause hardship.

6. The learned counsel for the respondent opposed this application mainly on the ground that allowing the applicant to bring on record the facts, which had taken place subsequent to filing of the suit, would amount to expanding the scope of the suit.

7. The applicant/plaintiff is entitled to file a rejoinder in order to controvert certain new facts pleaded by the respondent/defendant. The applicant/plaintiff also entitled to bring to the notice of this Court the subsequent facts which will have an impact on the final outcome of the suit. It is always open to the respondent to contend that the subsequent facts pleaded by the applicant are totally alien to the issues involved in the suit. Such an objection or argument by the respondent shall be made only at the time of final disposal of the suit.



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8. By allowing this application, to permit the plaintiff to file a rejoinder to the written statement of the respondent/defendant, no prejudice or irreparable loss would be caused to the respondent/defendant.

9. Accordingly, this Court is inclined to allow this application. As far as the additional documents sought to be produced by the applicant are concerned, the same cannot allowed to be produced, unless plaintiff files an appropriate application seeking leave of Court to produce additional documents, which had not been filed along with the plaint. It is always open to the applicant to file an appropriate application for production of additional documents. With this observation, the application is allowed.

14.06.2023

dm



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