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C.S. (COMM. DIV.) No.60 of 2022

O.A. No.164 of 2022
in
C.S. (COMM. DIV.) No.60 of 2022

ABDUL QUDDHOSE, J.

This application (O.A. No.164 of 2022) is pending before this Court, since 25.03.2022. The applicants are not having the benefit of any Interim Order, till date in this application. The suit filed by the plaintiffs is a Commercial Suit. Under the Commercial Courts Act, 2015, strict time limes have been stipulated. While that be so, the question of keeping this application pending for more than a year will defeat the objects of the Commercial Courts Act. The Commercial Courts Act, 2015 has been legislated only for early resolution of commercial disputes. The pleadings are also complete in the suit. The plaint and the written statement are available and a counter claim has also been filed by the defendant in the suit as seen from the written statement.

For the foregoing reasons, this Court is not inclined to grant an adjournment as sought for by the learned counsel for the applicants / plaintiffs, today, though he may seek for a short adjournment. Therefore, O.A. No.164 of 2022 is closed and the parties can go for trial.



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Based on the pleadings of the respective parties, the following issues are framed by this Court :-

1. Whether the design of the Defendant is infringing upon the registered design No.310835 of the Plaintiff?
2. Whether the design of the Defendant is infringing upon the registered design No.310836 of the Plaintiff?
3. Whether the Defendant has made profits from the commercialization of its infringed design?
4. Whether the plaintiff's registrations under Nos.310835 and 310836 are functional in nature?
5. Whether the plaintiff's registrations under Nos.310835 and 310836 are hit under novelty by the **design patent under No.ZL 2016 3 0590362.0** of M/s.GUANGZOU CHENBIN PACKAGING MATERIAL PRIVATE LIMITED, CHINA?
6. Whether the plaintiff's registrations under Nos.310835 and 310836 deserves to be cancelled based on the counter-claim by the defendant?



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7. Whether the plaintiff's registrations under Nos.310835 and 310836 are new, novel and original on the date of their application? Or whether the same has been used by the plaintiff themselves prior to the date of the application?

8. To what other reliefs?

Both the learned counsels are directed to file a joint draft Case Management Schedule on the next hearing date.

Post the matter for Case Management Hearing on 20.11.2023.

07.11.2023

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