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A.No.3639 of 2022 in C.S.Nos.674 of 2010

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C.SARAVANAN, J.

These two suits have been filed by the respondent/plaintiff in the year 2002 and 2010 for passing off and infringement. These two cases have a checked history in as much as interlocutory orders which came to be passed by this Court in the respective suits were appealed before the Hon'ble Division Bench of this Court.

1(a). Ultimately, after this Commercial Division was constituted, these cases were listed before this Commercial Division. In C.S.No.674 of 2010, written statement was filed during August 2015. In C.S.No.866 of 2022, there was a delay in filing the written statement. The delay in filing the written statement filed by the defendant by this Court on 09.04.2022 was condoned almost after a lapse of 12 years from filing of the first suit in C.S.No.866 of 2022 and the second suit in C.S.No.674 of 2010 respectively. The above applications has been filed for granting leave to the applicant/defendant to deliver the interrogatories filed as Annexure to the Judges Summons to respondent/plaintiff.



2. The court record indicates that there were attempt of the parties to settle the dispute out of Court. However, it did not yield in any positive results. Hence, the Trial should have commenced. It is at this stage, the applicant/defendant has filed this application under order XI Rule 2 of CPC read with section 151 of CPC for eliciting answers by serving letter of interrogatories on the plaintiff.

3. The application is supported by the learned counsel for the applicant/defendant by placing reliance on the decision of the Delhi High Court in **Tara Batra VS. Punam A.Kumar and others** (2021) 284 DLT 198.

4. The learned counsel for the applicant/defendant submits that in terms of second proviso to Order XI Rule 2 amended for the purpose of Commercial Courts Letter of Interrogatories which do not relate to any matter in the suit shall be treated as irrelevant.

5. The learned counsel for the applicant/defendant further submits that though this Court has taken a view that letter of interrogatories should



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not be filed belatedly, it is submitted that since the trial is yet to commence and since the parties were attempting to negotiate and arrive at a settlement during the pendency of appeal before the Hon'ble Division Bench, there can be no harm in allowing the application as trial is yet to commence. He submits that there can be no em-bargo in as much as the Letter of Interrogatories is in the aid of trial and there will be admission or denial to the question which have been enumerated in the Letter of Interrogatories which has been served on the respondent/plaintiff. It is submitted that Letter of Interrogation will speed up the Trial.

6. The application filed by the applicant/defendant is opposed by the learned counsel for the defendant on the ground that the applicant/defendant has been guilty of laches. It is submitted that the first suit is of the year 2002 and 2010 after a lapse of 20 and 12 years, the above applications has been filed after the issues were framed and the trial was to commence. It is submitted that the case was also listed on 20.06.2022 for Case Management and that the respondent/plaintiff had also filed a Schedule for Case Management hearing of the two cases together. It is at that stage, the defendant requested time for settling the dispute out of Court. That apart,



it is submitted that list of the questions which have been enumerated in the Letter of Interrogatories annexed to the Judges Summons in the above applications have already been answered. That apart, it is further submitted that the interrogatories served must have, reasonably close connection with “matter in question”. In this connection, a reference is made to the decision of the Hon'ble Supreme Court in the case of **Raj Narain VS. Indira Nehru Gandhi and Another** 1972 AIR 1302.

7. The learned counsel for the respondent/plaintiff has also placed reliance on the decision of the Hon'ble Division Bench of this Court in **G.Nanchil Kumaran Vs. Govindasamy Reddiar** (1999) 3 MLJ 660, wherein, when it was held that a party may not be permitted to administer Letter of Interrogatories in writing to the other through the Court belatedly.

8. It is submitted that the Court also followed the decision of the Hon'ble Supreme Court in the above mentioned case and reiterated that interrogatories shall have reasonably close connection with the matter in questions.



9. I have considered the arguments advanced by the learned counsel for the plaintiff and the learned counsel for the defendants.

10. The facts on record indicates that these suits proceed the enactment of the Commercial Courts Act, 2015 and assumption of jurisdiction and constitution of Commercial Division before this Court under the provisions of the aforesaid Act. The determination of jurisdiction under the commercial courts act was made on 09.12.2019.

11. During the interregnum, the defendant filed A.No.162 of 2020 in C.S.866 of 2002 for condoning the delay in filing the written statement which was dismissed and thereafter the applications were allowed. The letter of interrogatories which have been served on the respondent/plaintiff. They are entitled to serve Letter of Interrogatories to speed track the proceedings. It can reduce the time during Trial. The application has been filed after a lapse of 12 years for filing of C.S.No.674 of 2010. The fact remains that the case was transferred to the Commercial Division only in 2019 and there was a determination of the jurisdiction on 09.12.2019.



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12. Considering the above, I do not find any merits in the objections of the respondent/plaintiff. If questions enumerated in the Letter of Interrogatories are already covered in the plaint filed by the respondent/plaintiff, it is only fair on the part of the respondent/plaintiff to merely refer to the same in the answer to the letter of interrogatories. Even if the questions are irrelevant, the relevancy of those questions can be decided at the time of final arguments.

13. Under these circumstances, I am inclined to allow this application filed by the applicant/defendant. The respondent/plaintiff is directed to answer to the Letter of Interrogatories within a period of 30 days from the date of receipt of a copy of this order. Thereafter, case shall be listed before this Court for fixing the Schedule for Case Management.

14. List this case on 06.3.2023.

06.01.2023

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