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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 32/2024 & CM APPL. 11230/2024**

QRG ENTERPRISES & ANR.

..... Appellants

Through: Mr. Arvind Nigam, Sr. Adv. with Mr.
L.K. Bhushan, Ms. Raashi Beri and
Mr. Agnis Aditya, Advs.

versus

HPL (INDIA) LIMITED & ORS.

..... Respondents

Through: Mr. Sanjeev Sindhwani, Sr Advocate
with Mr. Sanjay Dua, Adv. for R-3
and 5.
Mr. Mohit Paul, Ms. Rangoli Seth and
Ms. Sanjeena Lal, Advs. R-2 and 4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

23.02.2024

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CM APPL. 11231/2024

1. Exemption is allowed, subject to just exceptions.
2. The application stands disposed of.

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3. The appellants have filed the present appeal impugning an order dated 09.02.2024 passed by the learned Single Judge in I.A. No.25944/2023 moved in CS(COMM)1218/2016 captioned *QRG Enterprises & Anr. v. HPL (India) Limited & Ors.*
4. The appellants had filed the said application under Order XXXIX Rule 1 & 2 read with Section 151 of the Code of Civil Procedure, 1908 (hereafter '*CPC*'). It is the appellants' case that the respondents had violated the order dated 12.11.2007 passed by the Supreme Court and had used the mark 'HAVELLS' on internet and online platforms. Additionally, the



appellants had also sought an injunction restraining the respondents and other persons acting on their behalf from employing the trade mark and/or trade name, 'HAVELLS' on any of their "publicity/promotional material, banners, pamphlets, brochures, website, product packaging or products or in any manner whatsoever" during the pendency of the present Suit.

5. The learned Single Judge had examined the allegations and found no merits in the appellants' allegation that the earlier orders had been violated and, therefore, rejected the prayer for initiating any contempt proceedings under Order XXXIX Rule 2A of the CPC. However, in so far as the prayer for restraining the respondents from using the trademark in question in on any of their publicity material, is concerned, the learned Single Judge had deferred the consideration for the same to the stage of final hearing.

Paragraph 5 and 6 of the impugned order are set out below:

"5. This brings us to the second provision invoked, which is Order XXXIX Rules 1 and 2. On this issue, in the opinion of the Court, the matter being ripe for final arguments, the Court's time should not be engaged in deciding an interim application. The relief sought in the application under the aforementioned provision shall be considered at the stage of final hearing. In case the Plaintiffs were to succeed, the reliefs concerning advertisement on Defendants' websites, as sought in the present application, would certainly be within the remit of this Court's jurisdiction to issue final directions in relation to the trademark dispute.

6. With the above observations, the application is disposed."

6. The appellants are particularly aggrieved by the decision of the learned Single Judge to dispose of the application, without deciding their prayer for interim relief. The appellants infer that the disposal of the application would effectively preclude their relief for injunction, as the learned Single Judge had directed would be considered at the stage of final



hearing. It is also contended that since the learned Single Judge had deferred consideration of part relief as sought in the application, the same could not be dismissed.

7. Mr Sindhwani, the learned senior counsel who appears for the respondents also has a grievance in respect of paragraph 5 of the impugned order. He states that there is a definite finding that the Court would entertain the additional reliefs. He submits that this observation forecloses the respondents' contention that the relief sought was beyond the scope of the Suit.

8. We find no merit in the contentions advanced by learned counsel of either parties. There is no ambiguity in the impugned order. The court has deferred the relief sought by the appellants to the stage of final hearing, which we are informed is scheduled for 18.03.2024. Thus, the additional relief as sought for would be considered by the Court at the scheduled hearing. The disposal of the application does not preclude such consideration as the Court always has a discretion to mould the relief considering that the application for grant of interim relief is pending.

9. The respondents' grievance is also without merit as the Court had clearly indicated that the relief would flow only if the plaintiffs [appellants herein] succeed. The Court has not foreclosed any of the contentions of either party in this regard. In view of the above, we consider it apposite to dispose of the present appeal with the observation that the learned Single Judge would consider the additional relief as sought for in prayer 'b' and 'c' of the application. To obviate any confusion in this regard, the additional prayer made by the appellants in its application is set out below:

“(b) Pass appropriate order(s) for injunction, restraining



the Defendants, their Directors, Chairman, Promoters, Officers, Servants, Agents, Dealers and anyone acting for and on their behalf from employing the trademark and/or trade name HAVELLS on any of their publicity/promotional material, banners, pamphlets, brochures, website, product packaging or products or in any manner whatsoever during the pendency of the present Suit; and

(c) Pass appropriate order(s) directing the Defendants to remove the Advertisement (Annexure B) from their website or any other digital or online space where the advertisement may exist; and”

10. We also consider it apposite to clarify that in the event, during the course of the proceedings, the Court was to conclude that any of its orders or directions have been violated either in letter or in the spirit, the Court is not precluded from passing such orders that it considers appropriate.

11. The present appeal and the pending application are accordingly disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

FEBRUARY 23, 2024/r

Click here to check corrigendum, if any