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

+ CM(M)-IPD 6/2024 & CM APPL. 31041/2023-Stay

PLAZA PRODUCTS

.....Petitioner

Through: Mr. Satish Kumar, Mr. Umesh
Mishra and Mr. Amit Kumar,
Advocates

versus

MILTON PLASTICS & ANR.

.....Respondents

Through: Mr. Abhijeet Rastogi and Ms.
Anjeeta Rani, Advocates for R-1
Mr. Randeep Kumar, Mr. Manav
and Mr. Manoj Kumar Sahu,
Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

04.07.2024

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1. By virtue of the present petition, the petitioner seeks to challenge the order dated 20.05.2023 passed by the learned Additional District Judge-08, Central District, Tis Hazari Courts, Delhi in TM-1097/2015, whereby an application under Order 1 rule 10 (2) of Code of Civil Procedure, 1908 (hereinafter referred to as the “CPC”) and Order 6 rule 17 of CPC filed by the respondent no.2 was allowed and the then existing petitioner M/s. Plaza Products has been substituted by Mr. Brij Mohan Sharma, acting as the sole proprietor of M/s. Arun Electricals.

2. Impugning the order under challenge, learned counsel appearing for the petitioner has primarily contended that the same is bad in law and is thus liable to be set aside as the respondent no.2 in its similar applications under Order 1 rule 10 (2) of CPC and Order 6 rule 17 of CPC had only sought for addition/ impleadment as plaintiff no.2 in the array of the



parties in the suit and not substitution as wrongly granted by the learned Trial Court.

3. Learned counsel appearing for the petitioner submits that by doing so the learned Trial Court has exceeded its jurisdiction and has in fact wrongly substituted the respondent no.2 in place of the petitioner. According to him, the same was permissible only under the provisions of Order 22 rule 10 of CPC and not under Order 1 rule 10 (2) of CPC.

4. Learned counsel appearing for the respondents, supporting the impugned order under challenge submits that there is nothing wrong therein and also that the very same contentions raised by the learned counsel appearing for the petitioner have already been negated by a speaking order, which is under challenge.

5. Having heard the learned counsels appearing for the parties and upon perusing the documents on record coupled with the relevant pleadings therewith, especially the impugned order under challenge, this Court finds that interestingly, at the time of passing of the impugned order, admittedly, there was indeed an *undisputed* and *unchallenged* Assignment Deed dated 13.11.2013 by virtue whereof the Petitioner/ M/s. Plaza Products had already assigned all its right, title and interest in and to the impugned trademark “MILTON” alongwith its five registrations to the respondent no.2/ Mr. Brij Mohan Sharma. In the considered opinion of this Court, the learned Trial Court has indeed passed a well-reasoned and detailed order taking into consideration all the contentions and defences raised by the parties, especially the Petitioner/ M/s. Plaza Products herein.

6. The factual matrix involved as disclosed from the record leaves no doubt in the mind of this Court to conclude that in wake of the



Assignment Deed dated 13.11.2013 the Petitioner/ M/s. Plaza Products was neither a necessary nor a proper party to the proceedings before the learned Trial Court and it was/ is the respondent no.2/ Mr. Brij Mohan Sharma who is the necessary and proper party to be impleaded as the plaintiff in the suit before the learned Trial Court as the Petitioner/ M/s. Plaza Products had given up all his rights, title and interest in the trademark “MILTON” alongwith its five registrations. As such, the contention qua Order 22 rule 10 of CPC raised by him does not come to his rescue.

7. Even otherwise, before this Court today learned counsel for the petitioner has been unable to propagate/ raise any new point of contention which shakes the conscience of this Court or which is contrary to the record or which is against the statute and/ or the established position of law or that the impugned order under challenge has recorded either any perverse findings or that it has not taken into consideration any issue raised by it.

8. In view of the aforesaid, the contentions raised by learned counsel appearing for the petitioner do not repose any confidence upon this Court for setting aside the impugned order under challenge.

9. Accordingly, the present petition alongwith pending application, is dismissed.

SAURABH BANERJEE, J

JULY 4, 2024/akr