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

Date of decision: 19.12.2024

\+ FAO(OS) (COMM) 294/2024

ANIL SINGLA ALIAS ANIL KUMAR & ORS .....Appellants

Through: Ms.Shobha Gupta, Ms.Manasvi Negi, Ms.Simranjeet Kaur, Ms.Akshita Mishra, Advs.

versus

M/S KWALITY FOOD PRODUCTS .....Respondent

Through: Mr.Aditya Gupta, Ms.Aishwarya Kaur, Ms.Chhavi Tokas, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 74608/2024

1. This appeal has been filed challenging the Orders dated 11.07.2024 and 07.11.2024 passed by the learned Single Judge of this Court in CS (COMM) 580/2024 titled ***M/s Kwality Food Products v. Anil Singla @ Anil Kumar & Ors***.

2. By this application, the appellant seeks condonation of delay of 45 days in filing the appeal.

3. For the reasons stated in the application, the delay of 45 days in filing the appeal is condoned.

4. The application stands disposed of.

CM APPL. 74607/2024 (Exemption)

5. Allowed, subject to all just exceptions.

CAV 624/2024

6. As the learned counsel for the respondent has entered appearance, the Caveat stands discharged.

FAO(OS) (COMM) 294/2024 & CM APPL. 74606/2024

7. This appeal has been filed challenging the Orders dated 18.07.2024 and 07.11.2024 passed by the learned Single Judge of this Court in CS (COMM) 580/2024 ***M/s Kwality Food Products v. Anil Singla & Ors***.

8. By the Order dated 18.07.2024, the learned Single Judge has passed the following *ex-parte ad interim* order against the appellant herein:

> *"32. Accordingly, it is directed that the defendants, their proprietors, partners, affiliates, franchises, officers, servants, agents, distributors, representatives and anyone acting for or on behalf of the defendants, are restrained from using the 'Ruchi' mark or any deceptively similar mark thereto including but not limited to 'Ruchi', 'SHREERUCHI', , and in any manner of any goods or services, including without limitation on product packaging, signages, stationery, advertising material, websites, domain names, social media leading to confusion as to origin or association, amounting to passing off or as to dilute the plaintiff's trademark."*

9. We are informed that while the arguments on the application filed by the respondent under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (in short, 'CPC') were being heard by the learned Single Judge, the respondent filed an application under Order XXXIX Rule 2A of the CPC, complaining that despite the order

of injunction, the appellant was blatantly violating the same by selling its goods under the impugned trademark. The respondent further contended that the appellant had also relied upon forged and fabricated invoices before the Court.

10. The learned Single Judge compared the invoices filed by the appellant before the Court with the ones that were produced before the GST Department by the appellants, and made the following observations:

> *"3. Attention of this Court has been drawn to the invoices filed along with the present application, which show the side by side comparison of the forged invoices with the invoices as issued by the GST Department. By comparing the said invoices, it is submitted that the original invoices do not contain the name of the mark Ruchi, while the forged invoices wrongly show the mark Ruchi, in order to portray a false case of prior user by the defendants.*
> *4. Prima facie, looking at the documents on record, this Court is of the view that the defendants have tried to overreach the process before this Court. The conduct of the defendants in placing reliance upon forged and fabricated documents before this Court, is a very serious matter."*

11. These invoices have not been filed before this Court. This is a clear case of concealment of vital documents in the appeal. This appeal is liable to be dismissed only on the grounds of concealment.

12. The learned counsel for the respondent has handed over these invoices to us. Let the documents be taken on record.

13. We have perused the invoices and observed vital differences

between the invoices that have been filed by the appellants in the suit and the invoices, bearing the same date and number, filed by the appellants before the GST Department. We, therefore, find no reason to interfere with the primary finding of the learned Single Judge. The invoices filed by the appellants in the suit, do *prima facie* appear to be forged and fabricated. In fact, the learned Single Judge has rightly stated that the defendants would first have to purge their contempt. The learned Single Judge may also take action on the filing of these false and fabricated documents before the Court. Grant of an *ad-interim* order is a discretionary relief; just as a plaintiff, who approached the Court with unclean hands, may be refused such discretionary relief, the defendant, who approached the Court for recalling a discretionary order of injunction may also be denied a hearing if it is found that such defendant has approached the Court with unclean hands. A party polluting the stream of justice, be it the plaintiff or the defendant, will be denied a hearing by the Court.

14. In view of the above, we do not find any reason to interfere with the orders passed by the learned Single Judge.

15. The appeal is dismissed with costs quantified as Rs.50,000/-, to be deposited with the *Delhi High Court Advocates' Welfare Fund*.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 19, 2024/Arya/SJ

Click here to check corrigendum, if any