HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 6448/2016

M/s. Goyal Fashions Pvt. Ltd., Goyal House-24, Ajmer Road, Jaipur Through Authorized Signatory Mohammad Illiyas

----Appellant

Versus

Hotel Ananta, 1/a New No. 51, Everest Colony, Lal Kothi, Tonk Road, Jaipur Through Its Authorized Signatory /proprietor /director / manager/representative

----Respondent

For Appellant(s)	:	Mr. M.M. Ranjan, Sr. Adv. assisted by Mr. G.D. Bansal
For Respondent(s)	:	Mr. Amit Chhangani

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

03/12/2024

1. Instant civil misc. appeal under Order 43 Rule 1 CPC has been filed by the appellant-plaintiff, challenging the order dated 24.09.2016 passed by the Additional District and Sessions Judge No.9, Jaipur Metropolitan, dismissing the application for temporary injunction filed by the appellant.

2. Heard counsel for both parties and perused the record.

3. It appears that the dispute between parties is in respect of using the trade name of "ANANTA", but the appellant-plaintiff has filed a civil suit along with application for temporary injunction under the relevant provisions of the Trademark Act, 1999, alleging itself to be a prior user of the trade name "ANANTA" since 2007 and on the ground of passing of such trade name by the respondent, injunction has been prayed against the respondent.

Respondent-defendant has resisted the suit as well as application for temporary injunction denying the appellant-plaintiff to be prior user of the trade name "ANANATA".

4. From the perusal of the impugned order, it transpires that the trial Court has not discussed the prima facie case in the backdrop of the factum of prior user but declined the prayer of temporary injunction, for other reasons. The record of the application for temporary injunction is available before this Court and the counsel for both parties do admits that the relevant documents in support of their respective pleas have not been produced in the file of application for temporary injunction but have been produced with the file of main suit.

5. It appears from the record that in the present appeal pending since 01.12.2016, no interim injunction order was passed and it has been apprised by counsel for both parties that during course of pendency of this appeal, the parties have completed their pleadings in the original suit and the issues have been framed and the trial is under progress.

6. In such circumstances, counsel for both parties are agreeable that they will adduce evidence in support of their respective pleas in the original suit and the documents produced by them can better be appreciated by the trial Court in the main suit, after recording evidence of both parties, therefore, the main suit itself may be ordered to be decided expeditiously within time frame limited.

7. Having considered the peculiar facts and circumstances obtained in the present case as also non-availability of the documents on record, and with the consent of counsel for both

parties, instant appeal is being disposed of, without interference to the impugned order, with direction that the trial Court shall proceed with the suit expeditiously and would endeavor to decide the same within a period of one year, if possible from the date already fixed and shall decide the contentious issues between the parties on merits, without being influenced by the rejection of application for temporary injunction and non-interference by this Court.

8. Both parties would be at liberty to produce their respective documents/ evidence in the main suit to prove their respective case pertaining to the issue of prior user and other grounds before the trial Court.

9. Stay application and other pending application(s), if any, stand disposed of.

10. A copy of this order be sent to the trial Court forthwith.

(SUDESH BANSAL),J

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