

Koninklijke Philips N.V vs Vivo Mobile Communication Co. Ltd & Ors on 20 October, 2020

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS (COMM) No. 383/2020, I.A. Nos. 8251/2020, 8258-59/2020
9614-21/2020

KONINKLIJKE PHILIPS N.V

.....PL

Through : Mr. Chander M. Lall, Sr. Adv. Wi
Ms. Saya Choudhary Kapur, Mr.
Ashutosh Kumar, Mr. Devanshu
Khanna, Mr. Nikhil Chawla, Ms.
Nancy Roy, Mr. Palash Maheshwar
Ms. Vrinda Bagaria, Mr. Munesh
Sharma and Mr. Swarnil Dey, Adv

versus

VIVO MOBILE COMMUNICATION CO. LTD & ORS.

.....Defen

Through : Mr. Saikrishna Rajagopal, Mr.
Siddharth Chopra, Ms. Sneha Jain
Ms. Garima Sahney, Ms. Anu
Paarcha, Dr. Victor Vaibhav Tand
Mr. Arjun Gadhoke, Mr. Vivek
Ayyagari, Mr. Avijit Kumar and M
Amitavo Mitra, Advs. For D-1 & 2
Mr. Rajiv R. Mishra, Adv. For D-

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 20.10.2020 [Court hearing convened via video-conferencing on account of COVID-19] I.A. No.
9614/2020, 9616/2020, 9618-19/2020 & 9621/2020

1. Allowed, subject to the applicant curing the deficiencies referred to in the captioned applications
within two weeks from today.

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2. These applications have been moved on behalf of defendant nos. 1 and 2 for condonation of delay
in filing replies to I.A. Nos. 8251/2020 and 8259/2020.

3. According to Mr. Saikrishna Rajagopal, who appears on behalf of the defendant nos. 1 and 2, in both the applications, the period of delay involved is 17 days.

4. Mr. Chander M. Lall, learned senior counsel, who appears on behalf of the plaintiff, says that while, in principle, he would have no objection to the prayers made in the captioned applications being allowed; there are certain assertions made in the said applications, which are contested by the plaintiff.

5. Accordingly, the prayers made in the captioned applications are allowed without prejudice to the rights and contentions of the plaintiff to establish that the assertions made in the applications on merits of the case are incorrect.

5.1 Accordingly, the replies are now, formally, taken on record.

6. The captioned applications are, consequently, disposed of in the aforesaid terms.

7. This is an application moved on behalf of defendant nos. 1 and 2 seeking extension of time to file the written statement in the suit.

8. Issue notice to the non-applicant/plaintiff. 8.1 Mr. Ashutosh Kumar accepts service on behalf of the non- applicant/plaintiff.

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9. As prayed, Mr. Kumar is given one week to file a reply to the captioned application. Rejoinder thereto, if any, will be filed before the next date of hearing.

10. List the application on 12.11.2020.

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11. Mr. Lall, in support of his plea that the financial health of defendant no. 2 is weak, has referred to the abstracts of the financial statements concerning the said defendant placed on record by the plaintiff.

12. A perusal of the abstracts of the financial statements concerning defendant no. 2 is indicative of the fact that defendant no. 2 maintains an inventory of substantial value.

12.1 Mr. Saikrishna says that the inventory and the assets of defendant no. 2 should secure the interests of the plaintiff, in case, the plaintiff were to succeed in the instant proceedings.

12.2 According to Mr. Saikrishna, the plaintiff does not have a prima facie case and, therefore, no interim directions should be passed.

13. Given the circumstances, defendant no. 2, without prejudice to its rights and contentions, is directed to file an affidavit with regard to its current net worth. The affidavit will inter alia also indicate the particulars, value and the location of both, movable and immovable, unencumbered assets.

13.1 In addition, thereto, defendant no. 2 will also place on record, the details of the liabilities owed to both secured and unsecured creditors. 13.2 The affidavit will be supported by a certificate of the statutory auditor of defendant no. 2.

CS(COMM)No.383/2020 page 3 of 4 13.3 This affidavit will be filed at least three days before the next date of hearing. Copies of the same will be furnished to counsel-on-record for the plaintiff.

14. List the matter on 12.11.2020, albeit, at the end of the board.

OCTOBER 20, 2020
Aj/KK

RAJIV SH

CS (COMM)No.383/2020

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