

Shakti Bhog Foods Ltd & Anr vs Kumar Food Industries Ltd & Ors on 13 September, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(COMM) 244/2023 and CC(COMM) 15/
7879/2023, 12095/2023, 15209/2023,
17022/2023, 17096/2023
SHAKTI BHOG FOODS LTD & ANR.

Through: Mr. Sand
Ms. Riya
Ms. Mrin
Panjwani
Advocate

versus

KUMAR FOOD INDUSTRIES LTD & ORS.

Through: Mr. Neeraj
Sethi, Ms.
Sunidhi Gu
& 9.
Mr. Amit B
Kewal Kris

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER

% 13.09.2023

1. This hearing has been done through hybrid mode.

2. In the present suit, Plaintiff No. 1- Shakti Bhog Foods Ltd. is currently undergoing corporate insolvency resolution process ('CIRP') under the provisions of Insolvency and Bankruptcy Code, 2016. The mark in dispute is SHAKTI BHOG. The Plaintiff is represented through the Resolution Professional.

I.A. 7879/2023 (for appointment of Local Commissioner)

3. This is an application filed by the Plaintiffs seeking appointment of Local Commissioner under Order XXVI Rule 9 CPC. Considering that the This is a digitally signed order.

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Defendants had already entered appearance on the first date of hearing, at this stage, no Local Commissioner is appointed.

4. Application is disposed of.

I.A. 15209/2023 (for delay)

5. This is an application by the Plaintiffs for condonation of delay in filing the replication in terms of Chapter VII Rule 5 of the Delhi High Court (Original Side) Rules, 2018. In the interest of justice, the delay is condoned.

6. However, there are certain additional documents that are stated to have been filed. The said documents are taken on record.

7. If the Defendant No. 1 wishes to file any rebuttal documents, he may do so within four weeks.

8. Application is disposed of.

I.A. 15210/2023 (for day to day hearing of I.A. 7878/2023)

9. The present application has been filed by the Plaintiffs to hear the IA 7878/2023 on a day to day basis. The matter has been taken up today. This application has become infructuous.

10. Application is disposed of.

I.A. 15211/2023 (for delay in filing reply to I.A. 12095/2023)

11. This is an application seeking to condone 8 days delay in filing reply to the I.A. 12095/2023. The delay is condoned.

12. Application is disposed of. Replication be filed within the time prescribed in terms of Chapter VII Rule 5 of the Delhi High Court (Original Side) Rules, 2018.

I.A. 17096/2023 [for impleadment u/O. I Rule 10(2) CPC]

13. This is an application by Defendant No. 1-Kumar Food Industries seeking impleadment of Mr. Kewal Krishan Kumar as Defendant No. 10 in This is a digitally signed order.

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14. Mr. Amit Bhatia, Id. Counsel appearing for Mr. Kewal Krishan Kumar submits that he has no objection to Mr. Kewal Krishan Kumar being impleaded as Defendant No. 10 in the present suit.

15. Accordingly, Mr. Kewal Krishan Kumar is impleaded as Defendant No.10. Let summons be issued to Mr. Kewal Krishan Kumar, upon his address details being filed.

16. Application is disposed of.

I.A. 17022/2023 [u/O. I Rule 10(2) and O. VII Rule 11 CPC]

17. This is an application seeking deletion of Defendant Nos. 2 to 7 and 9 on the ground that they are merely contract manufacturers who are manufacturing for Defendant No. 1, and they do not claim any independent rights in the Plaintiffs' mark 'SHAKTI BHOG'.

18. Considering the nature of the matter, wherein the Plaintiff no. 1 is undergoing insolvency proceedings, the presence of Defendant-contract manufacturers would be relevant for the purposes of the present suit. The deletion request is, accordingly, not accepted. The said Defendant Nos. 2 to 7 and 9 shall continue to remain as Defendant Nos. 2 to 7 and 9 before the Court.

19. Mr. Grover, ld. Counsel clarifies that he does not represent Defendant No. 8 who is one of the contract manufacturers. The affidavits dated 23rd August 2023 filed by Defendant Nos. 2 to 7 and 9 adopting the written statement of Defendant No. 1 are accepted. Defendant Nos. 2 to 7 and 9 shall be bound by the pleadings which Defendant No. 1 is filing in the present suit.

20. Application is dismissed.

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21. Vide order 26th April 2023, this Court issued notice to the Defendants in I.A. 7878/2023. Notice was accepted by Mr. Grover.

22. List for hearing on 12th October, 2023 on top of board at item No. 1.

PRATHIBA M. SINGH, J SEPTEMBER 13, 2023 mr/dn This is a digitally signed order.

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