

Ab Mauri India Private Limited vs Vicky Aggarwal & Ors on 14 December, 2022

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 810/2022

AB MAURI INDIA PRIVATE LIMITED Plaintiff

Through: Mr. Sidharth Luthra and
Mr. Chander M. Lall, Senior Advocates with
Mr. Philip Abraham, Mr. Sanuj Das,
Ms. Geetika Vyas, Ms. Ananya Chug,
Mr. Akshat Kumar, Mr. Asif Ahmed,
Mr. Kushagra Raghuvanshi and
Mr. Karanvir Virgogia, Advocates.

versus

VICKY AGGARWAL & ORS. Defendants

Through: Mr. Amit Sibal, Senior
Advocate with Mr. Prashant Mehta, and
Ms. Prachi Mehta, Advocate for D-1.
Mr. Amit Sibal, Senior Advocate with
Mr. Raghav Marwaha, Advocate for D-2.
Mr. Vidit Gupta and Mr. Chetan Singh,
Advocates for D-3 and D-9.
Mr. Prashant Mehta and Mr. Raghav
Marwaha, Advocates for D-4 to D-8.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH
ORDER

% 14.12.2022 I.A. 19498/2022 (under Order XXXIX Rules 1 and 2 CPC, by Plaintiff)

1. Issue notice to Defendants No. 3 to 9.
2. Notice is accepted by learned counsels as above on behalf of Defendants No. 3 to 9.
3. List before the Roster Bench, subject to orders of Hon'ble the Chief Justice on 20.12.2022.
4. The undertaking given by Mr. Atule Agarwaal/Defendant No. 2 on 24.11.2022, shall continue to operate till the next date of hearing.

CONT. CAS. (CRL.) _____/2022 (suo motu) (to be numbered)

5. On 23.11.2022, when the suit was first listed before the Court, during the course of arguments, a compilation of documents was handed over to the Court on behalf of the Defendants albeit caveats were filed on behalf of Defendants No. 1 and 2. Relying on the documents, more particularly, an order dated 02.03.2016, allegedly passed by the IPAB, it was strenuously argued that the documents were material to the suit and had been deliberately concealed by the Plaintiff, disentitling the Plaintiff to an interim injunction. Permission was sought to place the documents on record, during the course of the day. On behalf of the Plaintiff, this submission was refuted with equal vehemence urging that there was no concealment as the documents were neither material nor adverse to the Plaintiff, thereby giving no reason to the Plaintiff to conceal them. Court had granted liberty to the Defendants to place the documents on record, during the course of the day.

6. It is an admitted position obtaining between the parties that the compilation of documents was filed by the 'Defendants' under an index dated 23.11.2022 vide Diary No. 1935402/2022. The documents are a part of the court record.

7. On 24.11.2022, Mr. Chander M. Lall, learned Senior Counsel appearing on behalf of the Plaintiff, on instructions, questioned the genuineness and authenticity of the order dated 02.03.2016, allegedly passed by IPAB and it was submitted with vehemence that the order sought to be produced is a fabricated document, since no record of the order or any proceedings relating thereto exists before the erstwhile IPAB. It was also pointed out that Plaintiff was neither privy to any such proceeding before the IPAB nor had any knowledge thereof and therefore, the question of its participation in the proceedings did not arise. It was, therefore, urged that the matter requires investigation as filing forged and fabricated documents in a Court of law is a serious matter.

8. On behalf of the Defendants though it was seriously refuted that the IPAB order is fabricated, as alleged by the Plaintiff, however, it was candidly submitted that Defendants have no objection to the matter being investigated as this concerns majesty of the Court and sanctity of the Court proceedings.

9. After hearing both sides at length, Court directed Registrar (Vigilance) to conduct an inquiry into the genuineness/authenticity of the IPAB order dated 02.03.2016, with the assistance of the Registrar (Original). Copies of the order of this Court and order dated 02.03.2016 of the IPAB were sent to the Registrar (Vigilance). Report was directed to be submitted within a period of one week in a sealed cover and it was further directed that in case the file relating to the purported proceeding was retrieved from the record of erstwhile IPAB, the same would also be placed in the same sealed cover.

10. Pursuant to the inquiry/investigation conducted by the Registrar (Vigilance), a Report was submitted under a covering letter dated 01.12.2022. Albeit copy of Report was not shared with the parties or the Counsels/Senior counsels, the Court read out the findings rendered by the Inquiry Officer, in brief, in open Court.

11. Court has perused the detailed Report given by the Registrar (Vigilance) as well as the documents appended to the said Report. In a nutshell, the ultimate conclusion/finding in the Report is that there are no records available in which the order dated 02.03.2016, purporting to be an order of the IPAB was passed and no file to this extent exists. The conclusion in the Report is that the purported Order No. 5124/245 of 2016, alleged to have been passed in ORA/2903/16/TM/DEL is not

12. Section 2(c) of the Contempt of Courts Act, 1971 defines 'criminal contempt' to mean inter alia publication, (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or doing of any other act whatsoever which prejudices, or interferes or tends to interfere with, the due course of any judicial proceedings or interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any manner.

13. There is no gainsaying that any person who takes recourse to deflect the course of judicial proceedings and interferes with administration of justice, must be dealt with a heavy hand. There is a wealth of judicial precedents that filing of forged and fabricated documents in a Court to obtain relief is interference with administration of justice. It cannot be disputed that the majesty of law must be upheld and Contempt of Courts Act is one of the several ways by which process of law can be saved from being hindered or thwarted so as to further the cause of justice.

14. Tendency to obstruct due course of justice or undermine the dignity of the Court needs to be curbed to deter persons having similar proclivity to resort to such acts or conduct. In an appropriate case, mens rea may not be clear or may be obscure but if the act or conduct tends to undermine the dignity of the Court or prejudice the party or impedes or hinders due course of judicial proceedings or administration of justice, it would amount to contempt of court. [Ref. Chandra Shashi v. Anil Kumar Verma, (1995) 1 SCC 421; Ram Autar Shukla v. Arvind Shukla, 1995 Supp (2) SCC 130].

15. Having perused the Inquiry Report and the documents appended thereto, this Court is of the prima facie view that the conduct of the Defendants is an attempt to interfere and obstruct the judicial contempt, as defined under Section 2(c)(ii) and (iii) of the Contempt of Courts Act, 1971.

16. In view of Section 18 of the Contempt of Courts Act, 1971, the matter be placed before Hon'ble the Chief Justice for reference to the appropriate Division Bench.

17. The Inquiry Report rendered by the Registrar (Vigilance) has been placed in a sealed cover and handed over to Mr. Purshotam Pathak, Joint Registrar (Judicial), Delhi High Court, for safe custody. The sealed cover, as aforementioned, also contains an affidavit tendered on behalf of the Defendant(s) contained in a sealed envelope, during the hearing of the case, which was not opened.

JYOTI SINGH, J DECEMBER 14, 2022/shivam