

Shyam Steel Industries Limited vs First Construction Council And Ors on 9 January, 2019

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS (COMM) 8/2019
SHYAM STEEL INDUSTRIES LIMITED Plaintiff
Through: Mr. Akhil Sibal, Senior Advocate
with Mr. S. K. Bansal, Mr. Pankaj
Kumar, Mr. Kapil Kumar Giri, Mr.
Ajay Amitabh Suman, Ms. Shriya
Misra and Mr. Pranav Gadi,
Advocates. (M:9810017859)
versus
FIRST CONSTRUCTION COUNCIL AND ORS. Defendants
Through: None.
CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER

% 09.01.2019
I.A.215/2019 (exemption)

1. This is an application seeking exemption from filing clear/legible copies, English translation of vernacular documents and documents with proper margins. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed. I.A. is disposed of.

I.A. 214/2019 (additional documents)

2. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, „Commercial Courts Act). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act.

3. I.A. is disposed of.

CS (COMM) 8/2019

4. Let the plaint be registered as a suit.

5. Issue summons to the Defendants through all modes upon filing of Process Fee.
6. The summons to the Defendants shall indicate that a written statement to the plaintiff shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.
7. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.
8. List before the Joint Registrar for marking of exhibits on 24th April, 2019. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.
9. List before Court on 18th March, 2019.

I.A. 213/2019 (u/O XXXIX Rules 1 & 2 CPC)

10. The present suit has been filed by the Plaintiff - Shyam Steel Industries Limited, which claims to be a leading manufacturer and seller of TMT bar, structural steel and allied and related goods. The case in the plaint is that the Plaintiff was established in 1953 and has been in the steel business since then. Plaintiff further avers that its products have been used in a large number of projects, which are detailed in the plaint and there have been no complaints received in respect of quality of these products. The sales of the Plaintiff in the year 2017-18, as per the plaint, is more than Rs. 1500 crores, which according to Plaintiff, establishes its goodwill and reputation. It is submitted by Mr. Akhil Sibal, learned Senior Advocate that the Plaintiff has engaged various celebrities to promote its products and such celebrities include the well-known cricketer Mr. Virat Kohli.

11. Present suit has been preferred against Defendant Nos.1 to 3 as also Facebook, YouTube and WhatsApp in view of the publication of a report titled "Is India's 5.7 Trillion Infrastructure Investment at Risk?" The said report is claimed to have been published by the Defendant Nos.1 to 3 who are also alleged to be circulating the video with the title "Desh Bada Ya Paisa". It is submitted that in the said report and the videos as also the WhatsApp messages, which have been circulated based on the said report, there is a deliberate and malafide intention to denigrate the Plaintiff's products and term them as being of inferior quality. The manner in which the Plaintiff's products are portrayed, especially in the WhatsApp messages, according to the Plaintiff, has created enormous ill-will within the industry and the customers of the Plaintiff are being given a wrong impression as to the quality of the Plaintiff's products. It is submitted that the circulation of the said report, YouTube videos as also the WhatsApp messages have a negative impact on the Plaintiff's goodwill and business and the circulation of the same deserves to be injuncted owing to the fact that the Plaintiff was never given any opportunity to deal with the reckless allegations made in the said report/messages/videos.

12. This Court has perused the WhatsApp messages extracted in the plaint, as also the allegations made against the Plaintiff. Clearly, they show the Plaintiff's products in bad light. Since the same have been published without even caring to seek the response of the Plaintiff, the same is contrary to basic principles that govern publication of such reports. The products of the Plaintiff being shown in bad light also have the effect of tarnishing and diluting the Plaintiff's brand equity. In a similar case, Kamdhenu Ltd. v Jindal Steel and Power Limited & Ors. CS (COMM) 1229/2018, vide order dated 6th November, 2018, a Ld. Single Judge has granted an injunction against the circulation of the report and the connected material.

13. The Plaintiff has made out a prima facie case in its favour. Balance of convenience is in favour of Plaintiff and irreparable harm would be caused to the Plaintiff if the Defendants are not enjoined. Accordingly, till the next date, the Defendant Nos.1 to 3 are restrained from circulating the report titled "Is India's 5.7 Trillion Infrastructure Investment at Risk?" as also any other electronic or print media, messages or videos, which are based on the report, thereby resulting in the denigration or tarnishment of the Plaintiff's products. The Defendant Nos.4 to 7 i.e. Facebook, Youtube and WhatsApp are directed to ensure that the said report and any messages/videos based on the same are not permitted to be disseminated through their means of communication. Compliance of Order XXXIX Rule 3 CPC be made within three days.

14. Reply to the application be filed within four weeks from service of the present order along with the paper book. List the application before Court on 18th March, 2019 for hearing. Dasti.

PRATHIBA M. SINGH, J.

JANUARY 09, 2019/dk