

Anil Rathi vs Rgtl Industries Ltd. & Ors on 2 June, 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.151/2020 & I.A.Nos.4158-61/2020

ANIL RATHI

Through : Mr. Sudhir Chandra,
Mr. Sagar Chandra, M
Ms. Jyotsna Arora an
Rajwanshi, Advs.

versus

RGTL INDUSTRIES LTD. & ORS.D

Through : Mr. Rishi Kapoor and Mr. Sumes
Dhawan, Advs. with Ms. Vatsal
For the Resolution Profession

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 02.06.2020 [Court hearing convened via video-conferencing on account of COVID-19]

1. Allowed. The plaintiff is permitted to file additional documents within two weeks of the lockdown being lifted.

I.A.Nos.4160-61/2020

2. Allowed, subject to the plaintiff curing the deficiencies referred to in the captioned applications within five days of the lockdown being lifted.

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3. According to Mr. Sudhir Chandra, learned senior counsel, who appears on behalf of the plaintiff, defendant No. 1 is undergoing a rehabilitation process under the aegis of the NCLT, Bench-III, New Delhi. 3.1 Mr. Rishi Kapoor and Mr. Sumesh Dhawan, who appear on behalf of the Resolution Professional (RP), affirm this position.

4. Counsel for the RP have taken several preliminary objections qua the maintainability of the suit. In this behalf, counsel have also adverted to Sections 14(1) (a) & (b), Section 63, Section 60(5) as also Section 231 of the Insolvency and Bankruptcy Code, 2016 [in short "the Code"].

5. On the other hand, Mr. Chandra states that Rathi Foundation, of which the plaintiff is one of the trustees, has been assigned the registered trademark Rathi [hereafter referred to as the "subject trademark"]. 5.1 It is Mr. Chandra's submission that the assignment deed was executed in favour of Rathi Foundation on 29.06.1995 by K.L. Rathi Steels Ltd. who is the owner of the subject trademark.

5.2 In this behalf, Mr. Chandra has drawn my attention to page 50 of the documents filed by the plaintiff.

5.3 It is also Mr. Chandra's contention that since defendant No. 1 is undergoing a rehabilitation process, it has lost the right, in law, to use the subject trademark.

5.4 To buttress this submission, Mr. Chandra has relied upon the written statement filed on behalf of defendant Nos. 3 and 4 herein in CS (OS) No.603/2019.

CS(COMM)No.151/2020 page 2 of 3 5.5 Mr. Chandra says that the aforementioned suit is coming up for hearing before another bench of this Court tomorrow i.e. 03.06.2020.

6. Learned counsel for the RP alludes to the fact that Rathi Foundation has approached the NCLT in another matter concerning Indian Overseas Bank vs. M/S Rathi TMT Saria Pvt. Ltd. According to learned counsel for RP, this petition is numbered as C.P. No. (IB) 938 (PB)/2018. 6.1 Learned counsel for RP says that the Rathi Foundation has moved an application in that matter vis-à-vis the subject trademark.

7. I may only note that it is the contention of learned counsel for RP that defendant No. 1 is entitled to use the subject trademark.

8. In these circumstances, at request of Mr. Chandra, the matter is stood over to enable him to take instructions as to whether the plaintiff would like to move to NCLT for appropriate relief.

9. Renotify the matter on 11.06.2020.

JUNE 02, 2020
Aj/KK

RAJIV SH

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