

**M/s Psychotropics India Ltd. Vs. M/s Syncom Healthcare Ltd.**

30.08.2019

Present: Sh. Ashok Mittal and Ms. Palak Arora, Ld. Counsels for the DH.

Report of Nazir is perused. It is stated that JD is residing outside the territory limit of the Court.

Ld. Counsel for the DH submits that he needs sometime to move an application for obtaining the transfer certificate.

At this stage, it is submitted by the DH that one application under Order XXVI Rule 9 CPC has been filed. It is submitted that JD is still violating the trademark of DH, therefore, one Local Commissioner may be appointed to seize the goods of the JD which are violating the trademark of DH accordingly. Counsel for the DH has relied upon three Judgments i.e. :

- 1. Sarawjeet Singh Vs. Kusum Kumaria And Ors., Ex. P. 298/2014, Ex. Appl. (OS) 821/2014, 584/2016 and 106 of 2017 decided on 02.05.2018 by the Hon'ble High Court of Delhi;*
- 2. M. Narayanaswamy v. P. Rajasekaran, C.R.P.(NPD). No. 3294 of 2015 and M. P. Nos. 1 & 2 of 2015 decided on July 20, 2016 by the Hon'ble High Court of Madras and Gurram Anantha Reddy Vs. Katla Sayanna, Civil Revision Petition No. 2982 of 2014 and;*
- 3. Civil Revision Petition (SR) No. 23826 of 2014 decided on 30.03.2015 by the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh;*

in support of his contention alleging that as per Order XXVI Rule 18A CPC, LC can be appointed during execution as well. Order XXVI Rule 18A CPC is perused. There is no dispute regarding appointment of Local Commissioner during execution

proceedings. However, I am of the considered opinion that such appointment should always be in consonance with the object of the order to be executed, direction for which are mentioned in the decree. It is submitted by the counsel for the DH that at this stage, he is not pressing for the execution of relief of rendition of account and only other relief i.e. decree for injunction are to be pressed at this stage.

Considering the submissions made by the DH, it is therefore, reflected that whatever order is required to be passed for facilitating the execution of decree, it has to commensurate with its object which is in consonance with the procedure to be followed for execution of decree for injunction. As per Order XXI Rule 32 CPC, a decree of injunction can be executed by issuance of warrants of attachment of property or by issuance of warrants of arrest. Hence, Local Commissioner can be appointed but to facilitate the procedure for achieving the execution of warrant of attachment or warrant of arrest, as the case may be. It does not include, in my considered opinion, appointment of Local Commissioner to seize the goods of JD which are infringing the trademark of the DH. Such an attempt is always made during pendency of a trial to collect evidence pertaining to infringement done by JD/defendant. That stage is now over. More so, DH himself is not pressing his relief for rendition of account, at this stage, as alleged by him. Above all, JD is residing outside the territorial limits of this Court for which only option available to this Court is to proceed ahead as per Section 39 CPC. Hence, no Local Commissioner for the purpose alleged by the DH can be appointed by this Court. Prayer is, therefore, declined.

Put up for further proceedings on **04.10.2019.**

**(Prashant Kumar)**  
ADJ- 01 (Central),  
THC, Delhi, 30.08.2019