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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 124/2019 & I.A. 3364/2019, I.A. 4831-4832/2019, I.A.
6588/2019, I.A. 7477/2019, I.A. 12720/2019
CDE ASIA LIMITED Plaintiff

Represented by: Mr.Sudhir Chandra, Sr. Adv. and
Mr.C.M.Lall, Sr. Adv. with Mr.Rajat
Manchanda, Adv.

versus

JAIDEEP SHEKHAR & ANR. Defendant

Represented by: Mr.Rajeev Virmani, Sr. Adv. with
Mr.Mohit Bakshi, Mr.B.Prashant,
Mr.Angad Baxi, Ms.Niharika, Advs.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **30.01.2020**

IA 7477/2019 (for condonation of delay in filing the W.S., filed by D2)

1. By this application, the defendant No. 2 seeks condonation of delay of 30 days in filing the written statement.
2. Learned counsel for the defendant No. 2 states that the plant of the defendant No. 2 is in Tamil Nadu and the principal office in USA and as the prayer in the suit was for infringement of the plaintiff's patent, it took some time to collate the documents, resulting in the delay in filing the written statement as noted above.
3. Considering the explanation rendered by the defendant No. 2, the delay of 30 days in filing the written statement to the suit is condoned.
4. Application is disposed of.

CS(COMM) 124/2019

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IA 6588/2019 (under Order VIII Rule 1 and 10 CPC by plaintiff)

In view of the written statement of the defendant No. 2, which has been adopted by the defendant No. 1 being taken on record, the present application is dismissed as infructuous.

I.A. 4831/2019 (under Order I Rule 10 CPC by D1)

1. By this application, the defendant No. 1 seeks his deletion from the array of parties.
2. The present suit has been filed by the plaintiff, inter alia, seeking a decree of permanent injunction against the defendants, their directors, agents, servants etc, restraining them from jointly and severally or in any other manner, from manufacturing, using, offering for sale, selling and importing the impugned product FM 120 CONEXUS.
3. The only averments in the plaint against defendant No. 1 is in para 1.2 of the plaint stating that defendant No. 1 is one of the Directors of the defendant No. 2 and is responsible for day to day activities of defendant No. 2. The other allegation in the plaint is in para 22 of the plaint, wherein, it is stated that it is inconceivable that the defendants would not know the registered design of the plaintiff and thus, their contention with regard to the same, is fraudulent and dishonest.
4. Considering the averments in the plaint and the fact that there is no specific role attributed to the defendant No. 1, who is one of the Directors, even though, responsible for day to day working of the defendant No. 2, the defendant No. 2 being a party to the present suit, this Court finds that the defendant No. 1 is not a necessary party to the present suit.

5. Further, in the prayer clause itself, prayers are sought against director of the defendant No. 2 and in case any decree is passed, Directors of defendant No. 2 will also be liable, hence, defendant No. 1 be deleted from array of parties. Consequently, the defendant No. 1 is directed to be deleted from array of parties.

6. Application is disposed of.

CS(COMM) 124/2019

1. Amended memo of parties be filed within one week by the plaintiff.
2. List the suit for admission-denial of documents before the learned Joint Registrar on 27th February, 2020.
3. List the suit before Court for settling the issues, if any, on 19th March, 2020.

IA 12720/2019 (under Order XI Rule 10 CPC filed by D2 for filing additional documents)

1. Learned counsel for the plaintiff states that he has no objection if the application is allowed.
2. Additional documents are directed to be taken on record.
3. Application is disposed of.

IA 3364/2019 (under Order XXXIX Rule 1 and 2 CPC) and IA 4832/2019 (under Order XXXIX Rule 4 CPC)

List before Court on 19th March, 2020.

MUKTA GUPTA, J.

JANUARY 30, 2020/akb

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