

\$~1 to 3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CS(COMM) 386/2016

RAKESH JAIN

..... Plaintiff

Through: Mr. Birender Bhatt, Adv.

versus

H S C C (INDIA) LTD & ORS

..... Defendants

Through

Mr. Saurabh Mishra with
Ms. Samridhi Pal, Advs. for D-1.
Mr Jaswinder Singh with
Ms. Shipra Shukla, Advs. for D-2&3
with M.S.Guite (MSD) CGHS.

CS(COMM) 387/2016

TANYA HEALTHCARE & ORS

..... Plaintiffs

Through: Mr. Birender Bhatt, Adv.

versus

H S C C (INDIA) LTD & ORS

..... Defendants

Through:

Mr. Saurabh Mishra with
Ms. Samridhi Pal, Advs. for D-1.
Mr Jaswinder Singh with
Ms. Shipra Shukla, Advs. for D-2&3
with M.S.Guite (MSD) CGHS

+ CS(COMM) 395/2016

JENSON FINVEST PVT LTD

..... Plaintiff

Through: Mr. Birender Bhatt, Adv.

versus

H S C C (INDIA) LTD & ORS

..... Defendants

Through:

Mr. Saurabh Mishra with
Ms. Samridhi Pal, Advs. for D-1.
Mr Jaswinder Singh with
Ms. Shipra Shukla, Advs. for D-2&3
with M.S.Guite (MSD) CGHS

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% 19.02.2020

1. In spite of the last order dated 20th August, 2019 recording the neglect on behalf of Mr. Birender Bhatt, Advocate for the plaintiffs in conducting the suits, Mr. Birender Bhatt today also seeks a passover stating that he is not the main counsel and the main counsel is Mr. Aditya Madan, Advocate.
2. A perusal of the order sheet shows Mr Aditya Madan, Advocate to have not appeared and Mr. Birender Bhatt, Advocate or some other Advocate only having appeared.
3. To test, whether Mr. Aditya Madan appears, matter is passed over.

RAJIV SAHAI ENDLAW, J

FEBRUARY 19, 2020

4. On passover, Mr. Aditya Madan, Advocate for the plaintiffs appears.
5. The counsel for defendant no.2 in each of the suits i.e. CGHS Medical Store Depot has argued that, (i) the plaintiff instituted all these suits for recovery of monies; (ii) though since filing of the suits, the same are against three defendants i.e. H.S.C.C. (India) Ltd., CGHS Medical Store Depot and the Directorate General of Health Services, but the money claim was only against defendant no.1 and not against defendants no.2 and 3; (iii) the defendant no.1, in its written statement took a stand that it was merely a consultant for the purchases made by defendants no.2 and 3 from the plaintiff of the medicines, for recovery of price of which these suits had

been filed; (iv) the plaintiff thereafter amended the plaint, to also claim the relief of recovery against defendants no.2 and 3; and, (v) as on the date the application for amendment was filed, the suit claim against the defendants no.2 and 3 was barred by time and the suits, insofar as against defendants no.2 and 3, are liable to be dismissed without any trial.

5. The counsel for the plaintiff agrees to what is stated above and is unable to show how the suit claim, on the date of filing of the application for amendment, against defendants no.2 and 3, is not barred by time.

6. It is deemed appropriate to grant opportunity to the counsel for the plaintiff to prepare but on the condition that the counsel appears on the first call on the next date. If the counsel does not appear on the first call, appropriate orders shall be passed.

7. List on 3rd March, 2020.

RAJIV SAHAI ENDLAW, J

FEBRUARY 19, 2020

ak/‘gsr’