



\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 358/2017**
RAJ KUMAR GUPTA Plaintiff

Through: None

versus

SANJAY GUPTA & ANOTHER Defendant
Through: Mr. Satish Aggarwala & Mr. Vineet
Sharma Advocates for D-3

CORAM:
SH. RAKESH PANDIT (DHJS), JOINT REGISTRAR
(JUDICIAL)

ORDER
% **29.04.2019**

To come up for orders today at 04:00 pm.

SH. RAKESH PANDIT (DHJS)
JOINT REGISTRAR (JUDICIAL)

APRIL 29, 2019/hk
Present : None at 04:00 m.

IA No. 7326/2018(under Order 1 Rule 10 CPC by plaintiff)

1. By way of this order, I shall dispose of the present application filed by the plaintiff for adding Mr. Lahar Singh Gahlot as defendant no.4 in the present matter.
2. The brief facts of the case necessary to dispose of the present application are that the plaintiff has filed the present suit claiming himself to be the registered owner of trademarks 'SNG ZARDA, SANJOG, LAXMI



and SAFARI'. It is alleged that defendant no.1 is illegally printing, manufacturing and thus infringing or passing off the goods of the plaintiff. It is stated that for this purpose it had set up an illegal manufacturing unit at a premises which is let out to it by defendant no.2. It is further stated that defendants 1 and 2 have colluded with each other and illegally manufacturing the product of the plaintiff and further illegally selling the same in the market. In doing so, they are infringing the trademarks of the plaintiff. In the prayer clause it is prayed that the defendants be restrained from using the trademarks 'SNG ZARDA, SANJOG, LAXMI and SAFARI'. Damages etc. has also been sought.

3. In the present matter, the court on its own, made Directorate General of Goods and Service Tax Intelligence (DG,GSTI) as party. It has filed the written statement. It is stated that there was a raid at the premises of M/s Raj Products owned by the plaintiff and it was found that the plaintiff is producing the goods and selling the same without payment of Central Excise and evaded a tax of many crores.

4. From the perusal of record, it appears that defendant no.1 has still not been served. Defendant no.2 has filed the written statement and stated that he is not the necessary party as defendant no.2 is not the owner of the



premises and has not let out the premises. It is further stated that he is only related as “blood relative” of the landlords.

5. By way of this application, the plaintiff has sought impleadment of one Mr. Lehar Singh Gahlot as defendant no.4, a relative of defendant no.2. It is further stated that this is the person who had let out the premises to defendant no.1 and is also in active connivance with defendant no.1.

6. The proposed defendant no.4 has filed the reply and stated that the plaintiff was unable to show any collusion between defendants 1 and 2 and proposed defendant no.4. It is stated that he is not concerned with the illegal manufacturing being taking place at the rented out premises by anybody.

7. The plaintiff has filed the rejoinder reiterated and reaffirmed the facts of the application and denied those of reply.

8. I have gone through the record and the submissions forwarded by learned counsels for the parties.

9. From the perusal of the record, it appears that initially the plaintiff has filed a simple looking suit which appears to be that of infringement of trademark. However, the impleadment of DGGSTI and its written statement had brought a twist in the facts of the present matter.

10. Considering the circumstances and that there must be true facts



before the Court regarding the involvement of all the parties, it appears that proposed defendant no.4, though not a necessary party, but is a proper party. The application is accordingly allowed and Mr. Lehar Singh Gahlot is impleaded as defendant no. 4 in the present matter.

CS (COMM) 358/2017

In view of allowing of the above application, let written statement be filed by newly added defendant no.4 as per provisions of CPC and other relevant law to be followed by replication if any within the next two weeks.

Last opportunity is granted to the plaintiff to issue fresh summons against defendant no.1 through all modes on plaintiff taking the steps within a week from today, returnable on 19.07.2019.

**SH. RAKESH PANDIT (DHJS)
JOINT REGISTRAR (JUDICIAL)**

APRIL 29, 2019/hk