



M/s. Karukrit Advertising Pvt. Ltd. ....Appellant

VS.

M/s. Selvel Advertising Ltd. & Anr. ....Respondents

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Leave granted.

Though these cases have a chequered history but we may take notice only of some important facts.

There was an agreement for display of advertisements etc. between the Bhubaneswar Municipal Corporation (hereinafter 'the BMC') - respondent No. 2 and M/s. Selvel Advertising Ltd. - respondent No. 1, which was entered into on 7th January, 1994. According to the BMC, the life of the agreement was five years from 1st January, 1994 to 31st December, 1998 while according to respondent No. 1, the life of the agreement was ten years, the same having been renewed for a fresh term of five years and hence it was still live and operative upto 31st December, 2003. The respondent No. 1 thereupon filed a suit against the BMC to restrain it from demolishing the hoardings, kiosks etc. affixed at various places

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by respondent No. 1. An application for ad-interim temporary injunction under Order 39 Rules 1 and 2 C.P.C. was also filed. The suit was resisted by the BMC. It was pointed out that respondent No. 1 had earlier filed a writ petition being OJC No. 18427 of 1999 in the High Court seeking the same relief and after the writ petition had been heard and judgment reserved, respondent No. 1 withdrew the writ petition and on the same day filed a suit without seeking any permission of the writ court. In the meanwhile, the appellant entered into an agreement with the BMC for erecting hoardings, kiosks etc. The BMC also filed an application in the suit seeking to restrain respondent No. 1 from erecting any hoardings, kiosks etc. during the pendency of the suit. The interim application filed by respondent No. 1 was dismissed by the trial court while the application filed by the BMC seeking to restrain respondent No. 1 from erecting any kiosk or hoardings was allowed. Respondent No. 1, thereupon, filed two appeals which came to be dismissed by the learned District Judge, Khoda on 24th July, 1999. Two civil revisions were filed by respondent No. 1 thereafter, being C.R. Nos. 281 and 282 of 1999. In the civil revisions

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interim orders were made restraining demolition of the hoardings etc. put up by respondent No. 1. The appellant was neither made a party in the suit nor in the civil revisions which were filed by respondent No. 1. Vide order dated 15th October, 1999, the civil revisions were allowed by the High Court after setting aside the orders of the trial court and the first appellate court. The High Court has made detailed directions tantamounting to interim arrangement to remain operative during the pendency of suit or till June, 2000 - whichever is earlier. It is that order of the High Court which is put in issue by the appellant, after seeking permission of this Court to file the SLP.

The impugned order of the High Court in para 12(vii) records as follows:

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"This order shall remain operative till disposal of the suit or till end of June, 2000, whichever is earlier. The suit shall be disposed of in accordance with law on the basis of evidence on record without being influenced by any observations made by the Trial Court or the Appellate Court in the impugned orders, or in the present Order and without being influenced by the fact that an interim arrangement has been made under the present Order which has been passed keeping in view the exigencies of the facts and circumstances

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of the case and particularly keeping in view the letter issued by Karukrit. Needless to point out that this Order has been passed without prejudice to the contentions of either party."

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On the face of it, the order was operative only till disposal of the suit or till end of June, 2000, whichever is earlier. Thus, by the end of June,@@

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2000, the order made by the High Court had spent its force. We are, however, informed that respondent No.1 has sought an extension of the order dated 15th October, 1999 by filing an application in the High Court of Orissa so that the same may continue to operate beyond June, 2000, as the suit continues to remain pending and is not yet ripe for disposal. Since the appellant was not a party, in the suit or in the civil revisions, he may not have been made a party in the application seeking extension of the order dated 15th October, 1999. In the event any order has been made on that application, extending the life of the order dated 15th October, 1999 (order impugned before us), we grant liberty to the appellant to approach the High Court and seek its vacation/modification or variation. In the event, the application for extension is still pending, the High Court shall decide that application for extension only after putting the appellant to notice, granting it an opportunity to file objections and hearing the appellant as also other parties. In that way, in our opinion, the matter as it presently stands, is capable of resolution to balance the equities between the parties. We, therefore, dispose of these appeals with the above directions. We clarify that nothing said hereinabove shall be construed as any expression of opinion on the merits of the case and that the proceedings pending in the trial court or the High Court shall be decided on their own merits. The appeals are disposed of. There will be no order as to costs.

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Court shall decide that application for extension only after putting the appellant to notice, granting it an opportunity to file objections and hearing the appellant as also other parties. In that way, in our opinion, the matter as it presently stands, is capable of resolution to balance the equities between the parties. We, therefore, dispose of these appeals with the above directions.

We clarify that nothing said hereinabove shall be construed as any expression of opinion on the merits of the case and that the proceedings pending in the trial court or the High Court shall be decided on their own merits.

The appeals are disposed of. There will be no order as to costs.

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.....J.  
(R. C. LAHOTI)

.....J.  
(BRIJESH KUMAR)

New Delhi  
December 08, 2000.