

06.10.2005

Present: Mr. V.N. Koura with Ms. Paramjeet Benipal, Advocates for the Plaintiffs
Mr. Sandeep Sethi, Sr. Advocate with Mr. P.S. Bindra, Advocate for Defendant Nos.1 to 4.
Mr. Sudhanshu Batra, Advocate for Defendant Nos.5 to 13.
Ms. Prachi Vashisht, Advocate for Defendant Nos.14 to 21.

CS (OS) Nos.338/2002, 337/2002, 381/2002, 382/2002, 460/2002, 461/2002, 462/2002, 463/2002, 464/2002, 465/2002, 466/2002, 467/2002, 468/2002, 469/2002, 470/2002, 471/2002, 472/2002 & 544/2002

The suits have not proceeded since the year 2002 on account of the fact that there has been serious objection about the manner in which the written statement has been brought on record. An inquiry was also directed to be made by the Officer of this Court in view of the fact that in all the suits the written statement was purportedly filed on 19th October 2002 without giving any advance copy to the learned counsel for the plaintiff. Not only that these written statements were apparently placed under objection on the ground that the Index of the written statements had not been signed.

The first submission of the learned counsel for the plaintiff was that there were earlier delays on the part of the defendants in filing the written statements and despite time having been granted the written statements were not filed even during this extended period of time. This was so since the four weeks period granted to file the written statements expired on 16th October 2002. The written

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

statements were filed on 19th October 2002. The calendar for the year 2002 has been called and it transpires that 19th October 2002 was a Saturday and up to 18th October 2002, the Court and the Registry were closed. Thus the written statements were filed on the reopening day, which was in order.

The issue however remains that the written statements filed were defective having not served the advance copy on the learned counsel for the plaintiff and the index having not been signed. The inquiry made by the Officer of this Court shows that these written statements were put under objection and returned on 21st October 2002. Unfortunately the original side directions and practices have been clearly ignored by the Registry as it was stated that these written statements were returned without making any noting on the file of the same being returned under objection. It has been stated that the practice has now been rectified. The report submitted by the Officer of the Court is accepted subject to the condition that the concerned Dealing Assistant should be warned to be careful in future and ensure due compliance of the rules and procedure.

The written statements returned under objection have been refiled on 28th November 2002 and 5th December 2002 in two lots. There is no valid explanation for this delay in refiling the written statements when only reason for the same was that the advance copy was not served and index was not signed. There is also no valid reasons why they were filed on two different dates. This fact has to be

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read along with the conduct of the defendants in even earlier not filing written statements within time.

I am thus inclined to take the written statements on record only subject to payment of Rs.3,000/- (Rupees Three Thousand Only) as costs in each of the suits. The costs to be deposited within fifteen (15) days with the Delhi Legal Services Authority.

Learned counsel for the plaintiff makes an oral prayer for liberty to file replications in view of certain factual statements made in the written statements needing reply. Liberty granted to file the replication within eight weeks as prayed.

The parties to file their original document within the same period of time.

List before the Joint Registrar for admission/denial of documents on 3rd January 2006.

List before the court for framing of issues on 6th March 2006.

IA No.1473/2002, 8950/2003 & 10871/2003 in CS (OS) No.338/2002
(O 39 R 1 & 2 CPC)

IA No.1472/2002 in CS (OS) No.337/2002

IA No.1711/2002 in CS (OS) No.381/2002

IA No.1712/2002 in CS (OS) No.382/2002

IA No.2132/2002 in CS (OS) No.460/2002

IA No.2133/2002 in CS (OS) No.461/2002

IA No.2134/2002 in CS (OS) No.462/2002

IA No.2135/2002 in CS (OS) No.463/2002

IA No.2136/2002 in CS (OS) No.464/2002

IA No.2137/2002 in CS (OS) No.465/2002

IA No.2138/2002 in CS (OS) No.466/2002

IA No.2139/2002 in CS (OS) No.467/2002

IA No.2141/2002 in CS (OS) No.468/2002

IA No.2142/2002 in CS (OS) No.469/2002

IA No.2143/2002 in CS (OS) No.470/2002

IA No.2144/2002 in CS (OS) No.471/2002

IA No.2145/2002 in CS (OS) No.472/2002

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IA No.2495/2002 in CS (OS) No.544/2002

These are all applications under the provisions of Order 39 Rules 1 & 2 CPC filed by the Plaintiffs and the Defendants. Certain interim orders have already been passed and I consider it appropriate to direct that till the next date of hearing parties shall maintain status quo in respect of all the properties and in respect of share holding, registered office, Directorship of the companies.

List on 6th March 2006.

TR.P.(C) No.1/2004 & IA No.1603/2004

TR.P.(C) No.2/2004 & IA No.1585/2004

TR.P.(C) No.63/2004 & IA No.1054/2004

TR.P.(C) No.64/2004 & IA No.1055/2004

TR.P.(C) No.65/2004 & IA No.1053/2004

Learned Counsel for the parties state that these suits were originally filed in this court and were transferred to the trial court in view of the increase of pecuniary jurisdiction. It is however stated that these suits are also connected with other 18 suits, which are pending before this court in which directions have been passed today, i.e. 6th October 2005. It is thus directed that these suits referred to in the transfer petition be also called to this court and be registered and shall be heard and tried along with other 18 suits being CS(OS) Nos.338/2002, 337/2002, 381/2002, 382/2002, 460/2002, 461/2002, 462/2002, 463/2002, 464/2002, 465/2002, 466/2002, 467/2002, 468/2002, 469/2002, 470/2002, 471/2002, 472/2002 & 544/2002.

The Registry to ensure that the transferred suits are listed

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before the Joint Registrar on 3rd January 2006 and before this court on 6th March 2006, dates fixed in the aforesaid suits.

Transfer Petitions stand disposed of.

IA Nos.8455/2002, 3567/2003, 8938/2003, 11303/2003, 11304/2003, 9915/2003, 9916/2003, 6505/2004, CCP Nos.148/2003 & 164/2003 in CS (OS) No.338/2002

IA Nos.8456/2002 & 3566/2002 in CS (OS) No.337/2002

IA Nos.6225/2002, 8454/2002, 3563/2002 in CS (OS) No.381/2002

IA Nos.6226/2002, 8449/2002, 3564/2003 in CS (OS) No.382/2002

IA Nos.8450/2002, 5268/2002 & 3568/2003 in CS (OS) No.460/2002

IA Nos.5269/2002 & 3569/2003 in CS (OS) No.461/2002

IA Nos.5270/2002 & 3570/2003 Cav /2002 (to be numbered) in CS (OS) No.462/2002

IA Nos.5271/2002 & 3571/2003, Cav No.274/2002 in CS (OS) No.463/2002

IA Nos.5272/2002 & 3572/2003, Cav No.285/2002 in CS (OS) No.464/2002

IA Nos.5273/2002 & 3573/2003 in CS (OS) No.465/2002

IA Nos.5275/2002 & 3574/2003 in CS (OS) No.466/2002

IA Nos.5274/2002 & 3575/2003 in CS (OS) No.467/2002

IA Nos.5276/2002 & 3576/2003 in CS (OS) No.468/2002

IA Nos.5277/2002 & 3577/2003 in CS (OS) No.469/2002

IA Nos.5278/2002, 3275/2003 & 3588/2003 in CS (OS) No.470/2002

IA Nos.5279/2002, 5280/2002 & 3578/2003 in CS (OS) No.471/2002

IA Nos.5266/2002 & 3589/2003 in CS (OS) No.472/2002

IA Nos.5267/2002 & 3565/2003 in CS (OS) No.544/2002

IA Nos.5269/2002 & 3569/2003 in CS (OS) No.461/2002

Various applications have been filed by the parties and it was put to the learned counsel for the parties that these applications would only delay hearing on the injunction applications and the suits. Learned counsel for the defendants states that there are certain mis-statements made by the plaintiffs, which were naturally disputed by the learned counsel for the plaintiffs. There are similar applications of the plaintiffs. There are also objections raised whether one suit ought to have been filed or multiple suits.

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In my considered view, these will be all aspects to be considered on framing of issues or on consideration of the injunction applications and it is agreed as such by learned counsel for the parties. The counsel for the parties are at liberty to raise the issues at the stage of hearing and it will naturally be open to the court to take cognizance of the issues and pass appropriate directions.

Applications stand disposed of.

October 6, 2005.
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Sd/-
SANJAY KISHAN KAUL, J.

The original & signed order is kept in CS (OS) No. 338/2002.