

TM No. 3/22

M/S GOLDMEDAL ELECTRICALS PVT LTD Vs. DALPAT SINGH

27.04.2023

Present: Sh. Kamal Naresh, Ld. Junior Counsel for Plaintiff.

Ms. Shilpi Sinha, Ld. Counsel for Defendant.

Heard. Perused.

On 05.04.2023, application of plaintiff under Order VI Rule 17 r/w Section 151 CPC for amendment in plaint was filed.

Copies were received by defendant.

Ld. Counsel for defendant has given her no objection in writing at the border of the first page of the above said application of plaintiff under Order VI Rule 17 r/w Section 151 CPC to allow it.

Ld. Junior Counsel for plaintiff has given his undertaking in writing at the bottom of the index of the above said application of plaintiff to file the Court fees during the course of the day.

Consequent upon the directions of Delhi High Court in case '*Vishal Pipes Limited Vs. Bhavya Pipe Industry*' 2022 SCC OnLine Del 1730' and after receipt of this case on transfer from the Court of Ld. Additional District Judge; plaintiff through Counsel filed application for amendment in the plaint.

Plaintiff through Counsel in the course of his arguments put forth clarification in para 65 of above said case of '*Vishal Pipes Limited Vs. Bhavya Pipe Industry*' (*supra*) where there is mention *inter alia* that Commercial Court is not expected to value the specific IP on the basis of mathematical formulae but

Contd:-

TM No. 3/22

**M/S GOLDMEDAL ELECTRICALS PVT LTD Vs. DALPAT
SINGH**

:2:

to broadly take into consideration whether the said IP is worth more than Rs. 3 Lakhs, which is threshold for the Commercial Court to exercise jurisdiction.

By the sought amendment, the applicant/plaintiff wants to bring the subject matter of the suit as a commercial dispute by putting forth the specified value of its intangible Intellectual Property Right (in short IPR) in question to be above Rs. 3 Lakhs. It is submitted that except for the compliance of directions of Delhi High Court in case '*Vishal Pipes Limited Vs. Bhavya Pipe Industry*' (*supra*); no other pleading in the plaint is sought to be amended.

In the fact of the matter, in view of directions of Delhi High Court contained in case '*Vishal Pipes Limited Vs. Bhavya Pipe Industry*' (*supra*); subject to filing of Court fees during the course of day; the amendment sought for in the plaint is allowed subject to just exceptions. In case Court fees is not filed during the course of day, then application of plaintiff stand rejected. It would be the domain of the defendant to put forth in defence as to whether or not, the aforesaid valuation in plaint is proper or plaint is under valued; for which law shall take its own course. Also the amended plaint should not contain any amendment beyond what is sought for in the application seeking amendment in plaint and later if it is brought to notice of the fact situation to be otherwise; then not only such non-sought/permitted amendment in pleadings shall be liable to be struck off but also further necessary action as per law shall be

Contd:-

TM No. 3/22

**M/S GOLDMEDAL ELECTRICALS PVT LTD Vs. DALPAT
SINGH**

:3:

taken.

In above terms the application of plaintiff for amendment in the plaint is disposed off.

Case be registered as Civil Suit (Commercial).

Reader and Ahlmad to make necessary entries in registers, record and CIS.

Defendant to file written statement to amended plaint in 30 days after supply of the copy of the same to the plaintiff against receipt.

Fixed **10.07.2023** for further proceedings.

This order be uploaded on the website of the Delhi District Courts.

GURVINDER PAL SINGH
District Judge (Commercial Court)-02
Patiala House Court, New Delhi.
27.04.2023_(vlp)