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India: Delhi High Court Critiques Bare Denials And Decrees A Suit, Finding Suzuki A Well-Known Mark

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In its latest judgment on trade mark infringement, the Delhi High Court (Court) in the case of *Suzuki Motor v Suzuki (India) Limited*¹, passed a decree under Order XII Rule 6 of the Code of Civil Procedure, 1908 (CPC) against Suzuki (India) Limited (Defendant), as the Defendant in its written statement had failed to specifically deny the facts in the plaint, thereby, deeming the averments in the plaint to have been admitted. Order XII Rule 6 of CPC *inter alia* empowers the court to pass a decree if the admissions of the Defendant are sufficient to pass a decree.

Background

In and around December 2005, Suzuki Motor (Plaintiff) filed a suit along with an interim application seeking injunction against the Defendant and other co-defendants from infringing their trade mark/ trade name/ corporate name Suzuki. By virtue of interim order dated 12 December 2005, the Defendant and the other co-defendants were enjoined. Later, during the trial stage, the other co-defendants were removed as they were not necessary parties. Thus, the Defendant was the only disputing party during the trial stage. The Plaintiff sought a decree under Order XII Rule 6 of CPC against the Defendant, as the only defence raised by the Defendant in its written statement was challenging the territorial jurisdiction of the Court on the ground that the Defendant has no office in Delhi, which it failed to prove.

The Plaintiff's contentions were as follows:

- i. the Plaintiff has been using the trade mark Suzuki as part of its corporate name since its inception/incorporation in 1909. Suzuki, being the family name of the founder of the Plaintiff, is not connected to the Defendant in any manner;
- ii. the Plaintiff is the registered proprietor of the trade mark Suzuki in several countries of the world, including India; its earliest Indian registration dating back to 1972;
- iii. in 1982, the Plaintiff entered into a joint venture with the Government of India and also licensed its technology to the joint venture company, Maruti Suzuki India Limited; extensive efforts towards promotion and publicity of the same was undertaken by the Plaintiff;
- iv. by reason of continuous and extensive use and advertisement of the mark Suzuki, it has become distinctive of the Plaintiff all over the world including India;
- v. around 1982, the Defendant adopted its corporate name Suzuki India Limited in relation to its finance and investment business with a *mala fide* and dishonest intention of encashing upon the tremendous goodwill, name and reputation garnered by the Plaintiff and to pass off and mislead the public that the business of the Defendant had some connection with that of the Plaintiff;
- vi. there is no justification on the part of the Defendant to use a Japanese surname and the Defendant ought to have knowledge of the Plaintiff's statutory and exclusive right to use the trade mark Suzuki;
- vii. the explanation provided (during the hearing) by the Managing Director of the Defendant that his father knew someone by the name of Suzuki is an afterthought;
- viii. as per the provisions of the CPC, pleadings in the written statement should be specific and an evasive denial of a fact alleged in the plaint would be deemed to be an admission under Order VIII Rule 3 and Rule 5 of the CPC and thus the Court should pass a decree under Order XII Rule 6 of CPC against the Defendant.

The Defendant's contentions were as follows:

- i. the Defendant is an honest and concurrent user and on account of its continued and uninterrupted use of the trade mark/name Suzuki as part of its trade name Suzuki India Limited since 1982, the Defendant has earned substantial goodwill;
- ii. the present suit filed in 2005 is after a delay of over 25 years; thus, amounting to acquiescence on the part of the Plaintiff;
- iii. the Plaintiff has indulged in 'forum shopping' by filing a suit in this Court as the Defendant is incorporated in Kolkata and no part of cause of action has arisen in the jurisdiction of this Court;
- iv. the name Suzuki was adopted because the father of the Managing Director of the Defendant knew someone by the name of Suzuki;
- v. that the Plaintiff's use of Suzuki is only in relation to automobiles and hence it cannot be allowed to claim monopoly over all classes of goods;
- vi. that a decree is not warranted under Order XII Rule 6 of CPC as the Defendant has not made any admission in the written statement.

Decision

The Court observed that in the present case, the Defendant has chosen not to deny the Plaintiff's claim that the Defendant's adoption of the mark Suzuki is dishonest, calculated to deceive and that the Defendant had constructive notice of the Plaintiff's statutory and exclusive right over the mark Suzuki. The Defendant has also failed to deny that it was fully aware of the Plaintiff's mark Suzuki at the time of adoption of its mark and that the illegal use by the Defendant of the mark Suzuki will cause prejudice to the Plaintiff and its goodwill and reputation painstakingly developed at significant cost over the years by the Plaintiff. The Court relied on *M/s Gian Chand Brothers v Rattan Lal*² and *Badat & Co v East India Trading Co*³ and observed that a vague/evasive denial of a fact alleged in the plaint is sufficient to pass a decree against the Defendant.

The Court found no justification on the part of the Defendant to use the mark Suzuki as part of its corporate name and held that adoption of the same is fraught with *mala fide* and dishonest intention to trade on the Plaintiff's reputation and goodwill. The explanation provided by the Defendant for adopting the mark Suzuki was not accepted for two-fold reasons:

- i. Since Suzuki is a Japanese surname and is not associated with any Indian name, place, object or term, this explanation was completely far-fetched. Thus, there was no connection between the name Suzuki and the Defendant.
- ii. The explanation behind the adoption of the name Suzuki was not even pleaded in the written statement. Thus, the Court found no merit in the submission and rejected the same. The Court observed that since the Defendant's adoption of Suzuki was dishonest, the alleged use of the same from the year 1982 was of no consequence.

On the defense of 25 years delay and concurrent user, the Court observed that the Defendant, being a fraudulent infringer, cannot complain of delay and hide behind the defence of delay, laches or acquiescence as the infringement at the very initial stage itself was fraudulent. The delay and laches by itself would not bestow fraud with character of legality. Since the adoption of the mark was dishonest, a delay in bringing an action is not sufficient to defeat the grant of injunction. The Court further observed that mere concurrent user is not sufficient in law and that the same must be in conjunction with honesty. Thus, since the Defendant's adoption itself is dishonest, delay in bringing action is not sufficient to defeat injunction.

On the defense that the Defendant's nature of business is different, the Court observed that with the changing concept in the law of passing-off, it is not necessary that the Plaintiff and the Defendant should trade in same field of business. The Court observed that Plaintiff had placed sufficient material on record (news articles/publications since June 1982) to show that the Plaintiff's mark Suzuki was a well-known mark in India way back in 1982 when the Defendant adopted the same. The name Suzuki has acquired distinctiveness and secondary meaning in the business or trade circles.

Accordingly, the suit was decreed in favour of the Plaintiff under Order XII Rule 6 of CPC with a finding that Suzuki is well-known mark.

Comment

This judgment underlines the importance of specific denials in a suit. The judgement also highlights that once the Court comes to a conclusion that there is dishonesty on the part of Defendant, delay is immaterial.

Footnotes

1. CS (COMM) 235/2018 & I.A. 8507/2019
2. MANU/SC/0015/2013
3. AIR 1964 SC 538

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