

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5007 OF 2008

KANGARO INDUSTRIES (REGD) & ORS.

Appellant(s)

VERSUS

JAININDER JAIN & ANR.

Respondent(s)

WITH

CONMT.PET.(C) No. 305/2009

O R D E R

This appeal takes exception to the judgment and order dated 29.01.2007 passed by the High Court of Delhi at New Delhi in FAO (OS) No. 768-71 of 2006. The stated appeal was filed by the appellant against the order passed by the learned Single Judge on 18.10.2006 in contempt petition. The contempt action was initiated in reference to the *status quo* order passed by the Additional District Judge, Ludhiana dated 07.01.1997.

The respondent had filed a suit for the following relief:

"It is therefore, prayed that a decree for grant of permanent injunction restraining the defendants Nos. 1 to 4 themselves, or through their employees, servants, representatives assigns, etc. from getting the trade mark "KANGARO" transferred in their favour of in

favour of any of the firms fallen to their share in the family arrangement dated 10.04.1995/14.04.1995 and restraining them from selling manufacturing exhibiting, advertising, in any manner the said trade mark "KANGARO" or its products or by-products and restraining them from using the said trade mark in any manner whatsoever and further restraining them from getting the same registered in their names with the defendants No.5 and 6 and further directing defendants no. 1 to 4 to deliver to the plaintiffs all the goods lying manufactured with them under the goods lying manufactured with them under the goods lying manufactured with them under the trade mark "KANGARO" along with its materials, blocks, tools and dies, advertising materials etc. and decree for the rendition of accounts be passed in favour of the plaintiffs and against the defendants with costs. Any other additional or alternative relief to which the plaintiffs be found entitled to in the circumstances of the case, be also granted."

In that suit, the Additional District Judge, Ludhiana passed the interim order on 07.01.1997, which read thus:

"The application under Section 8 of the New Arbitration Act has been dismissed as not pressed. Learned counsel for respondents Nos. 1 to 4 claims that he is the registered owner of Trade Mark Kangaru. Plaintiff No.1 claims that he is using the same as owner. Let status quo regarding use of trade mark be maintained and W.S. be filed on 10.01.1997."

The respondent later on filed contempt petition and in contempt petition, learned Single Judge passed the following order on 10.10.2006:

"Notice to show cause to the respondents.  
Notice accepted on behalf of the respondents.  
At request by the learned counsel for the  
respondents renotify on 13th October, 2006.  
In the meantime, the respondents shall not  
pursue the matter further before Dubai Court  
concerning infringement action in respect of  
trade mark "Kangaro"."

This interim order was confirmed by the learned  
Single Judge by order dated 18<sup>th</sup> December 2006 which was  
to operate till the disposal of the contempt petition.  
This order was subject matter of appeal before the  
Division Bench which has been rejected, and against  
which, the present appeal has been filed.

After hearing learned counsel for the parties,  
while avoiding to record the detailed reasons as it may  
affect the claim of one or the other party in the  
pending proceedings, suffice it to observe that the  
order passed by the learned Single Judge on 10.10.2006  
in contempt action was unwarranted and avoidable.

We say so because it is not open to the Court in  
contempt jurisdiction to enlarge the scope of relief  
claimed in the main proceedings being CS(OS) No. 156 of  
2004 and more so, when the initial interim relief  
(07.01.1997) is limited to the registered trademark  
"KANGARO", in India.

The status quo order dated 07.01.1997 passed by the Additional District Judge, Ludhiana clearly records the stand of the appellant(s) that they are the registered owner of trademark "KANGARO". That stand is yet to be adjudicated in the pending suit.

Accordingly, we have no hesitation in setting aside the interim orders dated 10<sup>th</sup> October 2006 and 18<sup>th</sup> December 2006 passed by the learned Single Judge in the contempt petition as well as the impugned judgment of the Division Bench of the High Court.

However, we clarify that it will be open to the respondent-plaintiff to take recourse to other proceedings for appropriate relief including for anti-suit injunction in respect of foreign jurisdiction or simplicitor injunction, as may be advised, which proceedings can be examined on its own merits by the concerned Court uninfluenced by the impugned judgment.

In other words, all contentions available to the parties with regard to the respective claims are left open, to be decided as per law in the pending proceedings or future proceedings, to be resorted to by them.

The civil appeal is allowed in the above terms and

the accompanying contempt petition and CCO No.127 of 2006 are also disposed of in terms of this order.

Pending applications, if any, stand disposed of.

.....,J.  
(A.M. KHANWILKAR)

.....,J.  
(ABHAY S. OKA )

.....,J.  
(C.T. RAVIKUMAR)

NEW DELHI;  
APRIL 06, 2022

ITEM NO.105

COURT NO.3

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5007/2008

KANGARO INDUSTRIES (REGD) &amp; ORS.

Appellant(s)

VERSUS

JAININDER JAIN &amp; ANR.

Respondent(s)

(FOR ON IA 2/2008 FOR ON IA 15679/2007 FOR ON IA 71095/2008 FOR ON IA 33624/2009 FOR ON IA 95610/2012 FOR ON IA 8/2015 )

WITH

CONMT.PET.(C) No. 305/2009 In C.A. No. 5007/2008 (XIV-A)

Date : 06-04-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For parties:

Mr. Sudhir Chandra, Sr. Adv.

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Ms. Aamna Hassan, Adv.

Ms. Vernika Tomar, AOR

Ms. Anupriya Shyam, Adv.

Mr. Shailen Bhatia, Adv.

Mr. Rajeev Kumar Dubey, Adv.

Mr. Neelam Pathak, Adv.

Mr. Abhishek Mohali Cinha, Adv.

Mr. Kamendra Mishra, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The civil appeal is allowed in the above terms and the accompanying contempt petition and CCO No.127 of 2006 are also disposed of in terms of this order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)  
COURT MASTER (SH)

(VIDYA NEGI)  
COURT MASTER (NSH)

[Signed order is placed on the file]