



\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 1078/2018 & I.A. 11007/2018, I.A. 38062/2024**

HERO MOTOCORP LIMITED

.....Plaintiff

Through: Mr. Gaurav Miglani, Advocate
(M:9871304455)

versus

SHREE AMBA INDUSTRIES

.....Defendant

Through: Mr. Sushant Singh, Mr. Sourav
Pallanaik, Advocates
(M:7978900270)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

%

14.01.2025

I.A. 38062/2024 (Application under Order XI Rule 6 read with Section 151 CPC)

1. The present application has been filed on behalf of the defendant under Order XI Rule 6 read with Section 151 of Code of Civil Procedure, 1908 ("CPC") seeking leave to place additional documents on record.
2. Learned counsel for the defendant submits that the present suit pertains to the suit design no. 271199, in connection with front fender of the motor cycle. He submits that during the course of proceedings before this Court in the injunction application, it has been discovered by the defendant that the plaintiff has filed design application for complete bike containing the fender, which is a subject matter of the suit proceedings and also subject matter of separate design registration no. 271197 in Class 12-11. It is submitted that the said fact was pointed out by the plaintiff during the course



of arguments before this Court.

3. Thus, it is submitted that by way of the present application, the defendant seeks to bring on record the following documents:

“(a) Status Page of the design application No. 271197 available online on the website of Design office i.e. Design Application Status (ipindia.gov.in);

(b)The publication of the design No. 271197 advertised in the Design Journal No.29/2016, dated 15.07.2016 at page 52677 obtained from the link Intellectual Property India (ipindia.gov.in);”

4. Per contra, learned counsel for the plaintiff submits that the defendant amended its written statement in the year 2023. He further submits that as per own admission of the defendant, the defendant was in the knowledge of these documents in the year 2019, as the fact of the said documents has been recorded in the order dated 22nd April, 2019 passed by the Predecessor Bench of this Court.

5. Learned counsel for the plaintiff further submits that said documents are not relevant.

6. Having heard learned counsels for the parties, it is pertinent to note that Order XI Rule 12 CPC casts a duty upon the parties to disclose documents, which have come to the notice of a party, and such duty continues till disposal of the suit.

7. This Court notes that the documents sought to be placed on record, have already been considered by the Predecessor Bench of this Court at the time of adjudicating the application for interim injunction, filed on behalf of the plaintiff.

8. This Court is of the view that since the said documents pertain to the plaintiff itself, the same shall not cause any prejudice to the plaintiff if the



documents are taken on record at this stage.

9. Further, this Court also takes into account the submissions made by learned counsel for the defendant that since application for interim injunction was being argued at the relevant point of time, therefore, at the time of filing amended written statement, the said documents were not filed.

10. Although, the said explanation is not justified, however, considering the facts and circumstances of the present case, the present application is allowed and the documents sought to be placed on record by the defendant, are directed to be placed on record.

11. It is further clarified that the relevancy of these documents shall be considered at the time of final hearing of the matter after the trial.

12. With the aforesaid directions, the present application is disposed of.

CS(COMM) 1078/2018

13. In view of the fact that the additional documents have been allowed to be placed on record, the plaintiff is directed to file its affidavit of admission/denial of documents within one week from today.

14. List before the Joint Registrar (Judicial) for admission/denial of documents and marking of exhibits on 29th January, 2025, i.e., the date already fixed.

MINI PUSHKARNA, J

JANUARY 14, 2025

au