

# SUPREME COURT OF INDIA

Lakha Ram Sharma

Vs.

Balar Marketing Pvt. Ltd.

(S.N.Variava and H.K. Sema JJ.)

01.08.2003

## ORDER

1. Leave granted.

2. Heard parties.

3. A very short question is involved in this appeal. The appellant had filed a Suit claiming that he is a proprietor of a trademark 'KUNDAN' and 'KUNDAN CAB' in respect of PVC Wires and Cables and that the respondent was using the appellant's trademark. Permanent injunction, rendition of accounts and other reliefs were claimed. The appellant applied for an amendment of the Suit. The application for amendment was granted by the trial court. The High Court, however, by the impugned order, has disallowed only one portion of the amendment, namely, where the appellant sought to raise the valuation of the Suit from Rs. 1,00,000/- (Rupees One Lac) to Rs. 10,00,000/- (Rupees Ten Lac). The High Court has held that such a claim is arbitrary and not based on any cogent material. The High Court has held that the application to raise valuation is not bonafide as it is done with the purpose of taking the suit out of the jurisdiction of that court.

4. It is settled law that while considering whether the amendment is to be granted or not, the Court does not go into the merits of the matter and decide whether or not the claim made therein is bonafide or not. That is a question which can only be decided at the trial of the Suit. It is also settled law that merely because an amendment may take the suit out of the jurisdiction of that Court is no ground for refusing that amendment. We, therefore, do not find any justifiable reason on which the High Court has refused this amendment. Accordingly, the impugned order is set aside and that of the trial court is restored. We, however, clarify that as the appellant has now raised the claim from Rs. 1 Lakh to Rs. 10 Lakh, the trial court will determine whether or not Court Fees are correctly paid.

5. The appeal stands disposed of accordingly. No order as to costs.