

IN THE COURT OF XVIII ADDL.CITY CIVIL JUDGE,
AT BENGALURU CITY [CCH.NO.10]

Dated this day the 28th May 2020

PRESENT

Smt.M.PANCHAKSHARI, M.Com., LL.B.
XVIII Addl.City Civil Judge.

O.S.No.4961/2018

Plaintiff

Srinivas Devathi
S/o LateD.Satyanarayana,
Aged about 41 years,
R/at No.63, 11th B Cross,
3rd Main, Prashanthnagar,
Bangalore – 79.
[IN PERSON]

/VS/

Defendants:

1.Janssen Pharmaceuticals, Inc
A Johnson & Johnson Company
1125, Trenton- Harbourton Road,
Tirusville, NJ-08560, USA.
Reptd.by its J & J CEO,
Mr.Alex Gorsky, Mr.Joaquin Duato
Janssen CEO: Mr.Tom Heyman &
Director Mr.Mike Comprelli

2. HSBC Bank, USA (Formerly
Household)

452, Fifth Avenue, New York City,
NY- 10018, USA,
Reptd. By its USA CEO: Mr.Patric
Burke Director Ms. Heidi Pote

3. Capgemini US LLC (Formerly
Kanbay)
79, fifth Ave, Suite 300, New York,
NY-10003, USA
Reptd. By its CEO : Mr.Paul
Kermelin,
Mr.Thiery Delaporte, Mr. Aiman Ezzat
And Mr. William (Bill) Schreiner.

4. Hulsey Hunt & Parks P.C.
919, Congress Ave, Suite 919,
Austin, TX – 78701, USA
Reptd by rMr. Bill Hulsey

[By Sri.A.C., Adv., for D1,
Sri.SRS., Adv., for D3. D2 & 4 are
Exparte]

ORDERS ON I.A.NO.3 & 4

I.A.No.3 filed under order 7 rule 11 r/w Sec.17 to
21 & 151 of CPC on behalf of the defendant No.1 for
rejection of plaint.

2. The above application is enclosed with affidavit
of authorised signatory & Assistant Secretary of
defendant No.1 wherein it is contended that it is a

company well known pharmaceutical company engaged into pharmaceutical business of research, manufacture and marketing medicines as well as medical services and support that contribute to healthy outcome of vast populations. They also focus on research and development for the most devastating diseases such as Cardiovascular disease and problems pertaining to metabolism, immunology, infectious diseases and vaccines, neuroscience, oncology and pulmonary hypertension. They are not connected to any kind of automobile manufacturing or colour changing/ painting industry. They are in the business of “Life Saving Drugs” in the sector of “Life Sciences”/ “Pharmaceuticals Industry” and has obtained requisite approvals from the statutory authorities in the respective countries for the research, manufacture and marketing of the same. It is further contended that in the present suit plaintiff has not established any overlap in the business of plaintiff and 1st defendant, which are in two different fields namely plaintiff's vehicle colour change technology and 1st defendant company is Pharmaceuticals and life science. There is no similarity or any overlap with respect to the patent or also technology. Plaintiff has

failed to establish the nexus or reason or cause of action as to how 1st defendant has distressed the plaintiff's alleged patent. It is further contended that the specific relief sought by the plaintiff only against the United States Patent and Trademark Office(USPTO) which is an Authority granting trademarks and patents under the government and under the laws of the USA. Plaintiff failed to array USPTO as a necessary and proper party as required under law. Plaintiff has not pleaded on single concrete statement about the grievance suffered by him in personam or in rem due to the actions of 1st defendant. It is further contended that plaintiff has not disclosed any particulars such as cause of action and the details thereof, jurisdiction, limitation, statement of value of the subject matter. This court has no jurisdiction to grant the prayers as prayed by the plaintiff. On the above grounds prayed to allow the application.

3. I.A.No.4 filed under order 7 rule 11 of CPC on behalf of the defendant No.3 to reject the plaint filed in the suit.

4. The above application is enclosed with the affidavit of power of attorney of 3rd defendant wherein it

is contended that plaintiff does not disclose any cause of action against them nor this court have jurisdiction to entertain and try the suit. The subject matter of the alleged dispute / alleged cause of action falls within the jurisdiction of a foreign court and the relief claimed in the plaint are against a foreign government adjudicating authority and not against the defendants. It is further contended that the National Patent Application and the said PCT application have been applied by the plaintiff independently in his name and is processed by USPTO which is an independent adjudicating authority for grant of Patent in US. When the said applications were made, plaintiff was not within the employment of defendant No.3 and 3rd defendant was never connected to the subject patent application. There is nothing in the plaint which shows the role of 3rd defendant in the alleged dispute in relation to the alleged invention / patent. Entire proceeding is nothing but an abuse of process of law and the plaintiff has initiated the same to extort money and to cause harassment/ injury/ harm to them. None of the statements in the plaint are substantiated with any evidence to even remotely attribute the role of 3rd defendant in the subject matter in dispute. There is

no cause of action against them. Suit is manifestly vexatious and does not disclose or bring out a clear right to sue the defendants within the jurisdiction of this court. The relief claimed in the plaint are against USPTO and not against the defendants. The nature of the suit is such that neither the reliefs claimed in the suit can be granted by this court nor the defendants in the suit can be directed by the court in any way to redress the alleged claims by the plaintiff. Defendant no.3 carries on business in USA, no cause of action or part of cause of action arose within the jurisdiction of this court, and the relief claimed in the plaint cannot be granted. There is no credible evidence to even remotely attribute the role of 3rd defendant in the subject matter of dispute and suit is premised on false, baseless and conflicting / contradictory statements of facts. On the above grounds prays for dismissal of the suit.

5. Plaintiff has filed objection to the applications and contended that plaintiff was employed by 3rd defendant and 1st defendant were his clients from November 2006 until Jan.2010. Plaintiff worked at their NJ, USA offices physically during that time. He worked

out of Ortho biotech office facility and mostly from Janssen Pharmaceuticals USA facility in Titusville, NJ, USA. Later he had enough of their planned attacks and targetting and finally decided to quit his employment with 3rd defendant. He had invented 'Vehicle color change technology' upon the purchase of his 3rd used silver car. He made a note of this invention in the laptop issued by 3rd defendant in an excel sheet and did not realise that they were routinely scanned and subjected to automatic back-ups into 3rd defendant services. The 1st defendant and its parent company have relationship with USPTO since 1886. They have regular day to day discussions, ongoing conversations with USPTO director and their critical role in collusion of defendants. Defendant No.2 & 3 do not have regular daily business or interactions with USPTO. They do not file for patent applications. While 3rd defendant was plaintiff's employer during the stay in USA, 2nd defendant was the financial muscle to fund the collusion and their activities in the fraud. It is further contended that the fraud committed impacts 61 Non-USA country IP rights including India. Further contended that India's economy and total of 61 other (non-USA) countries economies are linked to the

fabulous invention of the plaintiff. Defendants have blocked all 61 countries from progressing, developing, energizing their economies, business and corporate worlds. It is further contended that he is an Indian Citizen, born and raised in Bangalore, his inventions / intellectual property as per Patent co-operation treaty (signed by India) is very much enforceable in all PCT Nations of the world. On these and grounds prays for dismissal of the application.

6. The points that arise for my consideration are as follows:

(1) Whether the defendant No.1 & 3 prove that the plaint is liable to be rejected as prayed?

(2) What order?

7. My answer to the above points are as follows:

Point No.1 : In the affirmative

Point No.2 : As per final order,

For the following:

R E A S O N S

8. **Point No.1** :- Plaintiff being party in person having filed this suit had sought the relief to remove the

sabotaging ISR from his PCT application and issue a correct ISR and communicate the same to WIPO and all designated states(PTOs), to provide the inventor with the invention enforceability rights as per Patent operation Treaty across all PCT countries, so that he could earn royalty and to issue a grant on USPTO patent application No.14/535,867.

9. These applications having filed by defendants 1 & 3, 1st defendant being a pharmaceutical situated at USA had prayed for rejection of the plaint on the ground that there is no claim against it and also suit does not disclose any cause of action in the plaint and no relief is sought against it. It is also contended that only relief claimed by the plaintiff are against USPTO who are not arrayed as proper and necessary parties in the suit. There being no absolute and specific relief against 1st defendant, they have sought for the rejection of the plaint.

10. On the other hand, defendant no.3 having also sought for the rejection of the plaint with exemplary cost on the very same ground that it does not disclose any

cause of action against 3rd defendant and parties does not come within the jurisdiction of this court.

11. Plaintiff claims himself to be the inventor of "Vehicle Surface Color Change Technology". Plaintiff also claims that 1st defendant were inventor's client (while being employed with defendant No.3) from January 2006 to January 2010. So plaintiff who claims himself to be inventor is said to have worked on site at 1st Defendant's office in NJ USA. He also claims that he had worked at 2nd defendant's office from October 2000 to June 2006. He also contended that 3rd defendant was his employer from October 2000 to January 2010. Defendant No.4 is IP Law firm who facilitates for filing global application before whom he claims that he had filed an application for his invention to "Vehicle surface color change technology". It is also his contention that this technology is extremely transformative concept/ technology to the world and it would attract large amount of wealth as royalty from across the globe.

12. It is the contention of the plaintiff that defendants 1 to 3 had previously targetted him when he invented

another concept called “Hands Free Shopping R in the year 2004. They have targetted and blocked him from launching this business in USA. He also claim that in the year 2007 when he invented “Vehicle Surface Color Change Technology” they continued to target his IP filing relating to his technology. Defendant No.1 to 4 came together and decided to sabotage and destroy the prospects of Inventor's IP rights across the PCT Countries. He also contended that this is due to hatred towards Indian Citizen living in India and not to allow them to become rich and earn royalty from across the world. Defendants 1 to 3 instructed USPTO to issue a patent grant on the inventions as it truly desired patent right. Now defendants 1 to 3 along with defendant No.4 had managed not to deliver sabotaging ISR (International Search Report) on time. This is on account of their malicious intention. So main contention of the plaintiff is that on account of the act of defendants they have potentially stolen trillions of dollars from the inventors plaintiff or reduced his prospectus of procuring patent on his inventions in 155 plus other PCT countries in the world. So on the above grounds he claims to issue grant of USPTO his patent application 14/535,867 and also to

provide him enforcibility right as per patent operation treaty across all PTC countries so that he could earn royalty,

13. If the contention of the 1st defendant is taken into consideration whereby it is pharmaceutical company said to have been engaged in to pharmaceutical business of research, manufacture and marketing medicines as well as medical services and support that contribute to healthy outcome of vast populations. It is also contended that plaintiff had failed to establish nexus or reason or cause of action as how 1st defendant company has distressed plaintiff's alleged patent. There is no material facts pleaded by the plaintiff to claim any relief against the 1st defendant company. The relief claimed is only against USPTO which is an authority granting trademark and patent under laws of USA. But plaintiff had failed to make USPTO as necessary and proper party in the suit.

14. On the other hand, defendant No.3 had also taken the contention that the plaint does not disclose the cause of action against it and this court has no jurisdiction to entertain the suit. The subject matter as allegedly filed within the jurisdiction of foreign country

and relief claimed is against a foreign government adjudicating authority and not against defendants. It had also contended that National Patent Application and PCT application have been applied by the plaintiff independently in his name and it is processed by USPTO which is an independent adjudicating authority for grant of patent in USA. That application were made by plaintiff when he was not within the employment of 3rd defendant and 3rd defendant was never communicated to the subject patent application. USPTO has its own set of examiners who are qualified in the respective field of invention who thoroughly examine an application and issue an ISR. Further 3rd defendant also contended that if plaintiff is aggrieved by ISR he has option to amend his claims, provide his written submissions and contest his claims before the Patent Office of the designated country for grant of Patent in relation to its PCT application. The subject matter of dispute alleged by the plaintiff being sabotaging ISR by USPTO is located in USA and it is an independent government adjudicating authority in USA. So the relief claimed by the plaintiff against USPTO and not against the defendants.

15. Taking into consideration the plaint averments and also affidavit contents of the plaintiff as his reply to the IA.NO.3 & 4 filed on behalf of the defendants 1 & 3 respectively, it clearly makes out claim of the plaintiff is against USPTO. In para 27 of the plaint, plaintiff had also stated that he is open for arbitration proceedings related to this matter, however insists that such an arbitration only be held within India. He claims to be inventor of Vehicle Surface Color Change Technology. His main contention is that this would earn trillions of dollar to India and on account of manipulation between the defendants 1 to 3 with defendant No.4, defendant No.4 did not communicate issue of ISR to the plaintiff. Defendants 1 to 4 are different companies. As contended by the defendant No.3 that it is rightly impossible to assume that 3rd defendant can issue order or direct to manipulate something which is subject matter of the adjudication before an independent Government Authority. As rightly contended by the 3rd defendant in the PTC process if plaintiff is aggrieved by ISR he always has an option to amend his claim and contest his claim before patent office of designated country for grant of patent in relation to his PTC application. If the relief

claim by the plaintiff is taken into consideration they are nothing to do with the alleged relief. It is only the concerned authority which has to look into the issue of grant of patent. If at all plaintiff substantiates his contention, no such relief as sought be granted against the defendants, as they cannot execute the relief as sought. The main relief sought by the plaintiff is to issue a grant on USPTO patent application No.14/535,867 and this USPTO is not a party in this suit.

16. Here in the present case, there is neither any contract based action, fraud, or any such act which can be put into action against the defendants herein. The fact pleaded by the plaintiff must disclose the cause of action to seek relief against the defendants. In this suit, plaintiff does not disclose any cause of action against the defendants 1 to 4 herein. Defendant No.2 & 4 are placed exparte. It is the contention of plaintiff that on account of malicious intention of the defendants he could not get his patent right. The documents referred by the plaintiff is dtd.4.11.2014 and ISR had two months deadline to respond back to USPTO which was not communicated to the plaintiff and it was delivered to him after he asked for

it several months later. He lost two months window to respond back to USPTO on the sabotaging ISR due to delay by defendant No.4. plaintiff himself has pleaded that he is however filing amendment in each PTO to ensure grant to procure at each National Stage Level. So his anticipation is that if a rejection is met within any national territory, the defendants become responsible and liable for the losses incurred by him and India. The remedy is much available for the plaintiff before appropriate authority ie., USPTO and put forward his claim before the Patent Office of the designated country for the grant of Patent in relation to his PTC application. In the circumstances, it is very much clear that plaintiff had failed to make out cause of action against the defendants in connection to the relief claimed. Hence I hold the above point in the affirmative.

17. **Point No.2** : In the result I proceed to pass the following:

ORDER

I.A.No.3 filed under order 7 rule 11 r/w Sec.17 to 21 & 151 of CPC on behalf of the defendant No.1 and I.A.No.4 filed under order

7 rule 11 of CPC on behalf of the defendant
No.3 are hereby allowed.

Plaint is hereby rejected.

[Dictated to the Judgment writer, computerised, and print out
taken by him, corrected and then pronounced by me through
video conference on this day the 28th May 2020].

(M.PANCHAKSHARI)
XVIII Addl.City Civil Judge,
Bengaluru.

Orders pronounced through video conference vide separate orders. The operative portion of the order reads thus;

ORDER

I.A.No.3 filed under order 7 rule 11 r/w Sec.17 to 21 & 151 of CPC on behalf of the defendant No.1 and I.A.No.4 filed under order 7 rule 11 of CPC on behalf of the defendant No.3 are hereby allowed.

Plaint is hereby rejected.

(M.PANCHAKSHARI)
XVIII ADDL. CITY CIVIL AND
SESSIONS JUDGE, BANGALORE