

BEFORE THE HON'BLE CITY CIVIL COURT AT AHMEDABAD

CIVIL SUIT NO 2889 OF 2011

11
27.19

PLAINTIFF: CAMA MOTORS PVT LTD

V/S

- DEFENDANTS:
1. DAIMLER AG
 2. MANAGING DIRECTOR & CEO,
MERCEDES-BENZ INDIA PRIVATE LIMITED
 3. DR WILFRED AULBUR
 4. MR ATUL BAPAT
 5. MR RAGHUNANDAN PENDSE

Affidavit-in-Rejoinder to Affidavit-in-Reply filed by the Plaintiff to Application filed on behalf of Defendant No 2 to return the summons for Defendant No 1

I, Suhas M Kadlaskar, adult, residing at Pune, do hereby solemnly affirm and state as under:

1. I am working as Director, Corporate Affairs & Human Resources with the Defendant No 2 Company. I have read the Affidavit-in-Reply filed by the Plaintiff (for short 'the reply) to Application filed on behalf of Defendant No 2 to return the summons for Defendant No 1 (for short 'the application'). I am authorized to make this Affidavit-in-Rejoinder to the reply.
2. At the outset, I state that the summons of the above suit was served on Defendant No 2 on 16-01-2012, in which the date for appearance was 20-01-2012. Due to paucity of time, the duly signed vakalatnama, though dispatched, was not received by the advocate for Defendant No 2. Therefore, advocate for Defendant No 2 filed an undertaking to file the vakalatnama and applied for adjournment on behalf of Defendant No 2 on 20-01-2012. I state that thereafter,

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M. TADWANI

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when the summons for Defendant No 1 was brought to my notice, I realized that it was accepted by mistake, thinking it to be a court notice on Defendant No 2. Therefore, I instructed my advocate to prepare an application returning the summons. Such application supported by affidavit was executed by me at Pune and sent to Ahmedabad for filing it before this Hon'ble Court. However, the same was not received by the advocate before the next date of hearing i.e 08-02-2012. Under the circumstances, the advocate filed an application under her signature and returned the summons for Defendant No 1. The application signed by me and supported by an affidavit is attached hereto as Annexure "A" .

3. With reference to paragraph 1,2 & 3 of the reply, I deny that the contents of the application are false, illegal or concocted as alleged or at all. I deny that the application is bad or malafide or that the process has been returned with an intention to delay the matter as alleged or at all. I state that the application as filed by my advocate is proper and was required to be given as the Plaintiff was attempting to abuse the process of law and was not following the due procedure laid down for service of the summons. I reiterate and confirm what has been stated by my advocate in the application. I state that the Plaintiff sought to misguide this Hon'ble Court by falsely representing that Defendant No 1 should be served at the address of Defendant No 2. I state that Plaintiff's sister concern Cama Hotels Pvt Ltd has filed a Civil Suit No 955 of 2011 against Defendant Nos 1 & 2 in this Hon'ble Court. In the said suit, Plaintiff has sought to serve Defendant No 1 at its address at Germany only though this Defendant was one of the Defendants in the said suit. Therefore, in the above suit also, Plaintiff is required to serve Defendant No 1 at its address at Germany and not adopt improper short cuts for the

So WHY?
For that
Plaintiff can
do RTI Application
on the Indian
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POST!!



4. With reference to para 4 of the reply, I state that Defendant No 1 is a multinational car manufacturing company, incorporated in Germany, whereas Defendant No 2 is incorporated in India and is manufacturing vehicles in India. Thus Defendant Nos 1 & 2 are separate legal entities. Defendant No 2 is also not authorised or empowered to accept summons or notice from any courts in India on behalf of Defendant No 1. Defendant No 2 is not the agent by whom Defendant No 1 carries on business within the jurisdiction of this Hon'ble Court. Therefore, the provisions of Order V Rule 13 of the Code of Civil Procedure, 1908 cited by the Plaintiff are irrelevant and inapplicable for the purpose of deciding the application. Plaintiff can certainly serve Defendant No 1 at its address in Germany by courier or Indian Post.

5. With reference to para 5 of the reply, I state that even if Defendant No 1 is the parent company of Defendant No 2, Defendant No 2 is not authorised or empowered to accept the summons on behalf of Defendant No 1. Plaintiff has failed to establish such alleged grant of authority. I state that the Plaintiff was appointed the dealer of Defendant No 2, known then as DaimlerChrysler India Limited and not the dealer of Defendant No 1. Later Defendant No 2's name was changed to Mercedes-Benz India Private Limited on or about 15-02-2008. Therefore, there is no question of the summons of Defendant No 1 being rightly served on Defendant No 2. I state that in the present suit Defendant No 1 is sought to be served through Defendant No 2 merely to avoid taking the trouble to serve the Defendant No 1 at Germany and with a view to abuse the process of law.

WHAT ABOUT YOUR 2009 ENTER?

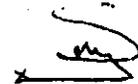
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6. In view of what is state hereinabove, the application filed by Defendant No 2 be allowed and Plaintiff be directed to serve Defendant No 1 at its address in Germany.

What is stated above is true to the best of my knowledge, information gathered from the records and I believe the same to be true and correct.

Solemnly affirmed at Pune on this 30th Day of March, 2012.



DEPONENT

BEFORE ME


N. T. ADWANI 30/3/12
NOTARY STATE OF MAHARASHTRA
PUNE


N. T. ADWANI 30/3/12
NOTARY GOVT. OF MAHARASHTRA
138, 'ASHIANA' PIMPRI
PUNE - 411 017.

321/A/12
Noted & Registered
At Serial Number

