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SUPREME COURT ON CLAIMING DAMAGES IN LIEU OF SPECIFIC PERFORMANCE

A. Introduction

Supreme Court (**SC**), in the case of *Universal Petro-Chemicals Ltd. v. B.P. plc & Others*,¹ rejected a claim for damages raised in lieu of specific performance of contract, as Universal (defined below) had not specifically sought such compensation in its plaint.

B. Facts

1. Universal Petro-Chemicals (**Universal**) filed a suit for specific performance of a collaboration agreement (**CA**) with Respondent No. 3; Aral AG (**Aral**), a subsidiary of B.P. plc. This CA granted exclusive licences to Universal for distribution, blending, rebranding, and marketing of Aral lubricants in India.
2. After which, both parties obtained necessary approvals from the Reserve Bank of India (**RBI**) and incorporated these in a supplementary agreement to the CA.
3. Subsequently, the Ministry of Commerce and Industry, on application by Universal, extended the timeframe of approvals previously permitted by the RBI. The new approvals were made vital to the CA, and the parties executed a second supplementary agreement to incorporate said approvals.
4. Subsequently, Aral issued a termination notice stating that the CA would cease. Universal challenged the termination by filing a civil suit in the High Court of Calcutta (**HC**), seeking specific performance of the CA.
5. Universal also sought perpetual injunction which would restrain Aral from marketing any lubricants in India, in particular, finished automotive and industrial lubricants, under Aral's brand name and design.

C. HC's Order

1. The HC passed an interim order restraining Aral from giving effect to the termination notice.² However, it refused to grant a decree of specific performance of the CA, in view of the bar in Section 14(1) of the Specific Relief Act, 1963 (**Act**).³ It observed that the CA involved

¹ MANU/SC/0208/2022: 18.02.2022.

² Civil Appeal No. 3127 of 2009.

³ Section 14(1) of the Act lists contracts which cannot be enforced.

performance of future, unspecified obligations and duties; therefore rendering it impossible to enforce its material terms.

2. It further held that it was an open-ended agreement involving flow of technology and innovation, which are constantly improved and upgraded. Thus, the specific performance of this contract was not granted.
3. Following this, Universal filed a special leave petition before the SC, questioning denial of specific performance of the contract.

D. SC Order & Analysis

1. SC observed that Universal had not specifically claimed for compensation and damages in its plaint.
2. After evaluating precedent, including *Shamsu Subara Beevi v. G. Alex and Anr.*,⁴ and the scope of Section 21(4) and (5) of the Act,⁵ the SC remarked: “*This Court referred to the Law Commission of India's recommendation that in no case the compensation should be decreed, unless it is claimed by a proper pleading.*”⁶
3. It also observed: “[...] *the Law Commission was of the opinion that it should be open to the plaintiff to seek an amendment to the plaint, at any stage of the proceedings in order to introduce a prayer for compensation, whether in lieu or in addition to specific performance. In the said case no claim for compensation for breach of agreement of sale was claimed either in addition to or in substitution of the performance of the agreement. Admittedly, there was no amendment to the plaint asking for compensation either in addition or in substitution of the performance of an agreement of sale.*”⁷
4. Universal had not initially claimed damages in the plaint and had not taken any steps to specifically plead for relief of damages or compensation. For this reason, SC held that compensation must not be decreed unless it is claimed.

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⁴ MANU/SC/0656/2004.

⁵ Section 21 of the Act details the power of courts to award compensation in certain cases.

⁶ Para. 12 of the Order.

⁷ *Ibid.*