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

+ **CS(COMM) 366/2022**

ECOMAX SOLUTIONS PVT. LTD.

..... Plaintiff

Through: Mr. Anirudha Vaisangkar & Ms.
Rishika Aggarwal, Advocates (M-
9811045646)

versus

ENERGEO BUILDING SOLUTIONS LLP & ORS..... Defendant

Through: Mr. Saikrishna Rajagopal, Ms. Sneha
Jain, Ms. Garima Sahney, Dr. Victor
Vaibhav Tandon & Ms. Shruti Jain,
Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **18.07.2022**

I.A. 10932/2022 (for clarification)

1. The present application filed on behalf of the Defendants seeks clarification of order dated 27th May, 2022, by which an *ex parte ad interim* injunction was granted by this Court.
2. The submission of Mr. Saikrishna, Id. Counsel for the Defendants, is that the Defendants have already installed their Automatic Tube Cleaning systems (*hereinafter* "ATC") in several customers' premises and that the customers themselves should not be made to suffer due to the order of injunction. He submits that vide the said injunction order, the Defendants were only restrained from accepting any fresh orders for their ATC systems, and the same did not concern services related to already installed systems.
3. It is further submitted by the Id. Counsel that there are a total of 27



customers who had already contacted the Defendant prior to the passing of the injunction order for the purchase of their product. The purchase orders and confirmations of these 27 customers were already under process. A list of the said customers is at page 44 of the application. The total value of these orders is to the tune of Rs. 2,16,37,323/-. In this regard, Id. Counsel submits that the intention of the Court in the said order was that the Defendants could execute all the purchase orders which have been received by them prior to the passing of the injunction order. For this submission, he relies upon paragraph 33 of the said order.

4. Ld. Counsel for the Plaintiff, however, opposes the sale of spare parts by the Defendants, and also submits that the pending orders which are being allowed to be executed, should only be in respect of purchase orders which have already been issued.

5. It is the opinion of this Court that the order dated 27th May, 2022 is quite clear, and reads as under:

“xxx xxx xxx

31. The matter requires consideration, inasmuch as the prima facie it appears that the Defendants are trying to misuse the information, drawings, technical system, specifications, etc of the Plaintiff. Continued misuse of the same would result in violation of the Plaintiffs statutory and common law rights both under the Copyright Act as also under the Patents Act. Customers to whom such equipment may be promoted or sold may also be misled. The balance of convenience is also in favour of the Plaintiff. Irreparable harm would be caused if the injunction is not granted as with each passing day, the Defendants may misuse, promote their business on the foundation of the Plaintiffs drawings and technology.

32. Accordingly, till the next date of hearing, the



Defendants shall not accept any fresh orders for the supply of the ATC system as described in document 8 in the document file, page 23 onwards. However, if there are any pending orders, the same shall be executed by the Defendants, subject to filing of proper accounts.

33. It is made clear by the Court that insofar as the already executed and pending orders are concerned, a detailed affidavit shall be placed on record as to the period from when such systems have been supplied by the Defendants to the third parties along with the value of the said supplies. ”

6. Since the clear intention of the Court is that the already executed and pending orders would be honoured by the Defendants, the following directions are issued:

- i) Subject to the maintenance and filing of accounts on a monthly basis by the Defendants, until the hearing in the application for interim injunction is complete, the Defendants are allowed to provide maintenance and servicing, as also sale of spare parts, for the products/systems already sold or installed prior to the order dated 27th May, 2022;
- ii) The Defendants are also permitted to execute the purchase orders for systems and products for the customers, who are listed on page 44 of the application. In respect of these system and products, the maintenance, servicing and sale of spare parts is also permitted;
- iii) No fresh orders shall be accepted by the Defendants and the interim order already granted shall continue till the next date of hearing.

7. Accordingly, **I.A. 10932/2022** is disposed of with the above



directions.

I.A. 10931/2022 (u/O XXXIX Rule 4 CPC)

8. Issue notice in the present application.
9. Reply be filed within a period of two weeks. Rejoinder be filed within two weeks, thereafter.
10. List on the date already fixed i.e. before the Joint Registrar on 8th August, 2022, and before the Court on 28th September, 2022.

I.A. 10930/2022 (for filing video(s) in a pen drive)

11. This is an application filed by the Defendants seeking leave of the Court to bring on record certain videos on a pen drive, relating to the Defendants' product/technology.
12. The video may be taken on record in a pen drive along with a copy being served on the Plaintiff. The same be uploaded in a separate folder on the Court computer, for the viewing of the Court on the next date of hearing.
13. Accordingly, **I.A. 10930/2022** is disposed of.

CS(COMM) 366/2022

14. Parties are permitted to obtain copies of the Local Commissioners' reports.
15. List on 8th August, 2022, i.e., the date already fixed, before the Joint Registrar.
16. List on 28th September, 2022 before the Court.

PRATHIBA M. SINGH, J

JULY 18, 2022

Rahul/SS