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

+ **CS(COMM) 350/2024**

DOLBY INTERNATIONAL AB & ANR.Plaintiffs

Through: Mr. Sandeep Sethi, Mr. Chander M. Lall, Senior Advocates with Ms. Saya Choudhary, Mr. Ashutosh Kumar, Ms. Saya Chaudhary Kapur, Mr. Devanshu Khanna, Mr. Swarnil Dey, Ms. Harshita Pothiraj, Mr. Abhinav Bhalla, Ms. Ananya Mehen and Ms. Riya Kumar, Advocates.

versus

LAVA INTERNATIONAL LIMITEDDefendant

Through: Mr. Ashok Aggarwal, Mr. Mudit Sharma, Ms. Nandini Sharma and Mr. Abhishek Rathi, Advocates

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **23.08.2024**

I.A. 32277/2024 (*Rejection of plaint under Order VI Rule 15A read with Appendix-I, Order XI Rule 1(3), Order XI Rule 6 of CPC*)

1. By virtue of the present application, defendant seeks striking out from the record the instant Plaint filed by the plaintiffs, primarily, on the ground that the Authorised Representative [**AR**] who is the signatory to pages 28 to 165 of the plaint as well as pages 168 to 170 of the Statement of Truth has made the following statement, which is contrary to *Appendix-I: Statement of Truth (Under First Schedule, Order VI-Rule 15A and Order XI-Rule 3)*:

3. *"I state that the accompanying Plaint, which has been drafted by the Plaintiffs' Counsel, on my instructions, consists of 137 pages, each of which has been electronically*



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signed by me, except the last page which bears ink signature.”

2. In short, two learned counsels appearing for the same defendant have both, in their hour long arguments, submit that the signatures of the AR of the plaintiffs being super imposed, are not in terms of the manner prescribed in *Order VI Rule 15A* of the Code of Civil Procedure, 1908 [**CPC**] or *Rule 6* of the *Appendix-I: Statement of Truth (Under First Schedule, Order VI-Rule 15A and Order XI-Rule 3)* of the Commercial Courts Act, 2015 [**CCA**] or *Rule 7.2* of the Delhi High Courts Rules for On-Line Electronic Filing (E-Filing), 2021 [**DHC E-filing Rules**] issued vide Notification No.11/Rules/DHC as well as *Section 5* of the Information Technology Act 2000 [**IT Act**].

3. Interestingly, none of the learned counsels appearing for the very same defendant have disputed that the signatures in either on the plaint and/ or the Statement of Truth along with do not belong to the AR of the plaintiffs, or for that matter in the fresh plaint also filed by the plaintiffs later on. Although, this Court finds, there is an averment to that effect made in the present application.

4. Barring the aforesaid, no other submission was made by either of the two learned counsel(s) appearing for the defendant.

5. Learned senior counsel appearing for the plaintiffs submits that the reply thereto has already been filed. Learned senior counsel then submits that the provisions of *Order VI Rule 15A CPC* being directory in nature, non-compliance thereof will not render the Plaint non-est as also that the procedural law in the handmaid of justice and must be subservient to substantive law in the interest of justice. In view thereof, learned senior



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counsel submits that, the plaintiffs have already filed a fresh Plaint with the original signatures of the AR on pages 28 to 165 of the Plaint.

6. Learned counsel(s) appearing for defendant submit that the signatures of the AR on pages 28 to 165 of the Plaint being “*digital signatures*” are neither digital signatures nor e-signatures. They submit that, without going into the issue involved, a fresh Plaint has also been filed before this Court.

7. This Court has heard learned (senior) counsels appearing for the parties as also gone through the relevant pleadings on record as also the relevant provision(s) of law referred hereinabove.

8. Considering the issue on hand, especially since everything is revolving around the signatures of the AR appended on pages 28 to 165 of the Plaint, this Court considers it proper and appropriate to call upon the said AR, who is present in Court, to record his statement under the provisions of *Order X CPC* qua the authenticity and veracity of the signatures appended on pages 28 to 165 of the Plaint.

9. The statement on oath of Mr. Nishant Sharma, AR of the plaintiffs is recorded separately and annexed to this order.

10. Interestingly, neither of the learned counsels for the defendant has raised any objection(s) qua either the AR, who is present in Court nor qua his statement recorded before this Court. This Court also has no reason and/ or basis to doubt the credibility of the statement recorded of the AR of the plaintiffs. The statement recorded of the AR of the plaintiffs thus, gives an assurance that the signatures appended on pages 28 to 165 of the Plaint are indeed that of the AR of the plaintiffs. As such, the signatures on pages 28 to 165 of the Plaint are not “*digital signatures*” of the AR of



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the plaintiffs.

11. A careful perusal of the said signatures thereon reveal that the signatures thereon are not “*super imposed*” but are seemingly “*scanned*” signatures thereof, which fact has not denied by either of the learned counsels appearing for the defendant.

12. As such, in the considered opinion of this Court, the Plaint with the signatures of the AR on pages 28 to 165 of the Plaint is a condonable and curable defect. The present suit is relatively at an early stage and since there is no order of injunction against the defendant, this Court has no hesitation in giving the plaintiffs a chance. Consequently, the best way forward for this Court is to adopt the corrective measure of giving a chance to the plaintiffs to file a fresh plaint with the original signatures of the AR of the plaintiffs, either in physical form or in digital form, more so, whence doing so would not be causing any irreparable harm, loss and/ or injury to the defendant and it is not going into the root of the matter at this stage.

13. Moreover, the provisions of *Order VI Rule 15A CPC* are directory in nature, which are to be given an expansive meaning. Thus, the hyper-technical view/ approach sought to be raised by both learned counsels for the defendant is not acceptable. Reliance in this regard is placed upon ***Prayag Polytech Private Limited vs. Raj Kumar Tulsian*** 2023:DHC:7088-DB wherein under similar circumstances, a Division Bench of this Court was of the opinion that if a strict interpretation were to be applied thereby mandating the nature and form of verification of pleadings as per Order VI Rule 15A CPC, that, by necessary implication, would only warrant an order rejecting the plaint, the Court should, without



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any hesitation reject such an interpretation as it would lead to palpable hardships, grave inconvenience, and derailment of the dispensation of justice. Further, such an interpretation would be absolutely absurd, harsh and would defeat the ends of justice. Indeed, mere non-signing of each and every page of the pleadings is *per se* a defective, but the same could very well be cured. Likewise, any defect in verification of an affidavit in the nature of “Statement of Truth” is also curable.

14. In any event, as the Plaint is accompanied with a duly verified affidavit “... *...in the manner and form prescribed in the Appendix to this Schedule.*” which has been signed by the AR of the plaintiffs on pages 28 to 165 thereof to the satisfaction of this Court, the provisions of *Order VI Rule 15A* of the CPC are not attracted.

15. Also, as it has been averred in the Statement of Truth filed along with the Plaint by the plaintiffs that the Plaint consisting “... *...of 137 pages, each of which has been electronically signed by me, except the last page which bears ink signature.*” the provisions of *Rule 6* of the *Appendix-I: Statement of Truth (Under First Schedule, Order VI-Rule 15A and Order XI-Rule 3)* are satisfied.

16. Lastly, since it is not disputed that the present is a case of “*super imposed*” signatures and not “*digital signatures*”, the provisions of *qua* both *Rule 7.2* of the DHC E-filing Rules and *Section 5* of the IT Act are also not applicable to the facts herein.

17. Accordingly, for the reasons enumerated hereinabove as also taking note of the facts and circumstances involved, there is no occasion for this Court to strike out the plaint filed by the plaintiffs from the record.

18. The application is accordingly dismissed.



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I.A. 36070/2024-Extension of time to file replication

19. Vide the present application, plaintiffs seek extension of fifteen days for filing replication.

20. Learned senior counsel for the plaintiffs submits that replication has already been filed.

21. Learned counsel for the defendant submits that he has no objection if the same is allowed, since the same is within 45 days of time.

22. For the reasons stated and in view of the statement made by the learned counsel for the defendant, the replication is taken on record.

23. The application is accordingly disposed of.

I.A. 37314/2024- under Order VIII, Rule 1, CPC

24. Learned senior counsel for the plaintiffs, upon instructions seeks to withdraw the present application.

25. Permission as sought for is granted.

26. The present application is accordingly dismissed as withdrawn.

CS(COMM) 350/2024, I.A. 9655/2024-Stay, I.A. 9658/2024-Dir, I.A. 9659/2024-Exp from pre-institution mediation, I.A. 9660/2024-Dir, I.A. 9666/2024-O-26, R-9, I.A. 32171/2024-O-7, R-11

27. Learned senior counsel for the plaintiffs submits that the written submissions have already been filed, however, the same are not on record.

28. Let same be brought on record, subject to removal of defects, if any.

29. Learned counsel for the defendant seeks and is granted one week for filing written submissions.

30. Renotify on 12.11.2024, 13.11.2024 and 14.11.2024 at 03:30 PM.

SAURABH BANERJEE, J.

AUGUST 23, 2024/So



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HIGH COURT OF DELHI AT NEW DELHI

CS(COMM) 350/2024

DOLBY INTERNATIONAL AB & ANR.

..... PLAINTIFFS

versus

LAVA INTERNATIONAL LIMITED

..... DEFENDANT

Statement of Mr. Nishant Sharma, S/o Late Sh. Anil Kumar, aged about 45 years, resident of B-501, Neelachal Apartments, Plot No.-3, Sec-4, Dwarka, New Delhi, South West Delhi, Delhi-110 078 (Mobile No.: 9891400139) authorized representative of Dolby Technology India Pvt. Ltd., Berger Delhi One, WeWork, Floor no. 19, C-001/A2, Sector 16B, Gautam Buddha Nagar, NOIDA on S.A.

1. I say that I have been shown pages 28 to 163 of the e-copy of the plaint of CS(COMM) 350/2024 filed by Dolby International AB & Anr. during the course of hearing today. I say that I identify and affirm that signatures at the bottom of pages 28 to 163 of the e-copy thereof are mine and I am the signatory thereof, though they are the electronic version thereof.

2. I also say I have been shown pages 164 and 165 of the e-copy of the plaint of CS(COMM) 350/2024 filed by Dolby International AB & Anr. during the course of hearing today. I say that I identify and affirm that signatures at the singular place on page 164 and at two places on page 165 thereof are mine and I am the signatory thereof, though they are the electronic version thereof.



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3. I say that the signatures on pages 28 to 163 are my initials and those on pages 164 and 165 are my complete signatures.

R.O & A.C.

(Nishant Sharma)

SAURABH BANERJEE, J

AUGUST 23, 2024

So