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

+ **CS(OS) 353/2025**

PUSHKAR RAJ THAKUR

.....Plaintiff

Through: Mr. Muskan Garg and Mr. Himanshu
Goyal, Advs.

versus

GOOGLE LLC AND ANR.

.....Defendants

Through: Ms. Mamta Rani Jha, Ms. Shruttima
Ehersa, Mr. Rohan Ahuja and Ms.
Diya Viswanath, Advs. for D-1.
Mr. Shreyans Jain, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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01.12.2025

I.A. 26541/2025

1. The present application under Order XXXIX Rule 4 of the Civil Procedure Code, 1908 has been filed by the Defendant No.2 for setting aside of the ad-interim *ex-parte* mandatory injunction granted by way of the Order dated 27.05.2025 passed by this Court in the present Suit.

2. This Court on 28.10.2025 had observed as under:-

“2. Though the present application is essentially a reply to the application filed under Order XXXIX Rules 1 & 2 of CPC, wherein interim directions were passed, the only portion of the present application which requires consideration by this Court is being reproduced as under:

“.....Most significantly, the Plaintiff misled this



Hon'ble Court into believing that Defendant No. 2, a small foreign entity, had been duly served and placed on notice for the hearing on 27.05.2025, on which date the ex parte ad interim mandatory injunction was granted. In reality, the purported service was effected in clear breach of Rules 68 and 123 of the Practice Directions, which mandate that defendants must receive the final filed copy, be informed of the likely date of listing, and, where the matter is not listed within three working days of service, must be re-served before a hearing can be sought. None of these safeguards were complied with. Defendant No. 2 was first sent an incomplete, pre-defect version of the plaint on 22.05.2025, barely a week before the hearing, without disclosure of the likely date of listing. The final filed and defect-cured version was served only on 29.08.2025, along with this Hon'ble Court's notices and summons. Despite this, the Plaintiff pressed for an ex-parte ad-interim mandatory injunction on 27.05.2025, resulting in an order passed without valid service, notice, or opportunity of hearing to Defendant No. 2, a modest digital media entity located outside India. The Plaintiff and its counsel made false statements on oath to bolster this defective service. The service affidavit was sworn by one Ms. Muskaan Garg, falsely asserting that the service email dated 22.05.2025 was sent from her personal email ID, whereas records conclusively show that it was sent by Mr. Himanshu Goyal. The affidavit also falsely claims that the final filed plaint was served on 22.05.2025, although the record shows that the plaint was refiled on multiple occasions between 22.05.2025 and 27.05.2025 upon removal of defects. These sworn misstatements constitute deliberate falsehoods amounting to perjury, striking at the root of the



Plaintiff's bona fides and credibility. Such conduct is antithetical to the duty of utmost good faith owed by a party seeking ex parte equitable relief."

3. Learned Counsel for the Defendant No.2 draws attention of this Court to the first e-mail dated 22.05.2025 received by the Defendant No.2 from the Plaintiff, by way of which a copy of the Suit was first served upon the Defendant No. 2. Attention of this Court is also drawn to the refiling details as raised by the Registry on the even date, which read as under:-

"REFILE DATE

22-05-2025

DEFECTS

1. AD-VALORAM COURT FEE IS REQUIRED TO BE PAID

2. CAVEAT REPORT BE OBTAINED AND AT THE TIME OF EACH SUBSEQUENT REFILING AND PROOF OF SERVICE BE FILED.

3. FRESH NOTICE OF MOTION UPON COUNSEL FOR CONCERNED RESPONDANT BE FILED IF 3 DAYS HAVE ELAPSED SINCE THE DATE OF LAST SERVICE. ANY AMENMENTS DONE IN THE PETITION SHOULD ALSO BE INFORMED/SERVED TO THE OPPOSITE/CONCERNED PARTY

4. SERVICE BE MADE TO THEIR NOMINATED COUNSEL PERSONALLY / TRACKING REPORT / DELIVERY REPORT OF SPEED POST / COURIER BE ATTACHED

5. .



6. REST OF THE OBJECTIONS WILL BE RAISED LATER ON AFTER MODIFICATION/ACCORDING TO CORRECT CLASSIFICATION/NOMENCLATURE OF THE CASE-IF ANY

7. PROPER BOOKMARKING BE DONE ALONG WITH THE DESCRIPTION OF THE ANNEXURES AND PAGE NO AS GIVEN IN THE INDEX

8. BRIEF DESCRIPTION OF ANNEXURES BE GIVEN IN THE BOOKMARKING

9. DESCRIPTION OF ANY OTHER DEFECTS:KINDLY FILL THE BLANKS IN THE MASTER INDEX. BOOKMARKING OF INDEX I IS NOT WORKING. KINDLY DO THE BOOKMARKING PROPERLY FOR SCRUTINY.

24-05-2025

1. JURISDICTION VALUE SHOULD BE FIXED FOR EACH RELIEF SEPARATELY AND COURT FEE BE PAID ACCORDINGLY.

2. DESCRIPTION OF ANY OTHER DEFECTS:KINDLY FILL THE BLANKS IN THE MASTER INDEX. KINDLY MENTION DATE IN THE VERIFICATION OF PLAINT”

4. It is the case of the Defendant No.2 that since the paper book of the Suit served on the Defendant No.2 was supplied before curing of the defects and a fresh paper book was not supplied after curing the said defects, the *ex-parte* order dated 27.05.2025 granting injunction must be vacated.

5. This Court does not find any substance in the present application filed under Order XXXIX Rule 4 of the CPC, as no fresh document, which was



not supplied to the Defendant No. 2, was filed by the Plaintiff between the date of first filing and after curing of the defects, which would have caused prejudice to Defendant No.2.

6. The other reasons given in the application under Order XXXIX Rule 4 of CPC are answer to the application filed under Order XXXIX Rules 1 and 2 of CPC which this Court does not want to enter into at this stage. Liberty is granted to the Defendants to file a reply to the application under Order XXXIX Rules 1 and 2 of CPC.

7. In view of the above, this Court is not inclined to entertain the present application filed under Order XXXIX Rule 4 of the CPC.

8. With these observations, the present application is disposed of.

I.A. 13509/2025

9. The Defendant No.2 has filed the reply to the present application filed by the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC.

10. Let the replication be filed before the next date of hearing.

11. List the present application on 29.01.2026, the date already fixed.

SUBRAMONIUM PRASAD, J

DECEMBER 01, 2025

Prateek