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

+ CS(COMM) 513/2024, I.A. 31500/2024, I.A. 31501/2024, I.A.
31502/2024, I.A. 31503/2024 & I.A. 31504/2024

M/S SULTAN CHAND AND SONS PRIVATE LIMITED & ORS.

..... Plaintiffs

Through: Mr. Kunal Tandon and Mr. Saurabh
Dev Karan Singh, Advocates.

versus

FLIPKART INTERNET PRIVATE LIMITED & ORS.

..... Defendants

Through: Mr. Ankur Sangal, Mr. Ankit Arvind
and Mr. Kiratraj Sadana, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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31.05.2024

I.A. 31501/2024 (*Exemption from filing certified, typed copies of dim annexures etc*).

1. Exemption is granted, subject to all just exceptions.
2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.
3. Accordingly, the present application is disposed of.

I.A. 31502/2024 (*Exemption from advance service to the defendant*)

1. This application has been filed by plaintiffs seeking exemption from effecting advance service to defendants.



2. Exemption is granted.
3. Application stands disposed of.

I.A. 31503/2024 (Exemption from pre-institution mediation)

1. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in **Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.**, FAO (COMM) 128/2021, exemption from attempting pre institution mediation is allowed. Accordingly, the application stands disposed of.

I.A. 31504 /2024 (Exemption in filing the Court fees)

1. Application is disposed of on the undertaking of the counsel for the plaintiffs that the Court Fees will be deposited within one week.

CS(COMM) 513/2024

1. Let the plaint be registered as a suit.
2. Upon filing of process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement(s) be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the defendant shall also file affidavit(s) of admission/denial of the documents of the plaintiff, without which the written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication within 30 days of the receipt of the written statement(s). Along with the replication, if any, filed by the plaintiffs, affidavit(s) of admission/denial of documents filed by the defendants, be filed by the plaintiffs, without which the replication(s) shall not be taken on record. If any of the parties wish to seek



inspection of any documents, the same shall be sought and given within the timelines.

3. List before the Joint Registrar for marking of exhibits on 03rd September, 2024.

4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 31500/2024 (Application under Order XXXIX Rules 1& 2, CPC)

1. This application has been filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (“CPC”) as part of the accompanying suit seeking a decree of permanent injunction against unnamed persons (*John Doe*) and all those acting for and, on their behalf from distributing, selling, printing, publishing books and revised editions in which the plaintiff owns copyright; and injunction against these sellers (Defendant nos. 4-17) and injunction against online platforms (defendant nos. 1, 2, 3, 18 and 19) to take down the said listings.

2. Plaintiff No.1 claims exclusive license under an agreement dated 01st December, 2021 for various copyrights under certain publications (*collectively referred to as ‘Copyright Books’*) which are as under:

- (i) *Double Entry Book Keeping (Financial Accounting) for Standard XI;*
- (ii) *Double Entry Book Keeping (Accounting for Not – For Profit Organization and Partnership Firms, Vol. 1)*
- (iii) *Double Entry Book Keeping (Accounting for Companies Vol.2)*
- (iv) *Analysis of Financial Statements for Standard 12.*



3. Plaintiff Nos. 2 and 3 are legal heirs of Late Sh. T.S. Grewal (*hereinafter 'the Author'*) and now own copyright in the said books.

4. During the last quarter of 2022, plaintiffs learnt about the counterfeit infringing copies being sold through e-commerce portals. In order to enforce their rights, they filed various police complaints which are as under:

- (a) FIR No. 0517 dated 17.10.2023 lodged at P. S. Vijay Vihar, Rohini;
- (b) FIR No. 354 / 2023 dated 01.08.2023 lodged at P. S. Vijay Daryaganj, New Delhi;
- (c) FIR No. 0202 / 2024 dated 06.04.2024 lodged at P. S. Geeta Colony, Shahdara, New Delhi;
- (d) FIR No. 0139 dated 25.04.2024 lodged at P. S. Patparganj Industrial Area, East Delhi.

5. Raids were conducted and counterfeit/infringing copies were recovered in huge quantities. Thereafter, plaintiff came to know that counterfeits are being sold *inter alia* on defendant No.1's portal (*Flipkart*). On 27th April, 2024, plaintiffs wrote to defendant No.1 informing them about the sellers/listing selling counterfeit/infringing copies of Copyright Books.

6. However, defendant no.1 responded on 14th May, 2024, stating that they were an intermediary and would not take down the same and even if they did, they were bound as per their policy to revert the listings in 21 days. Counsel for defendant no.1 (*Flipkart*) is present in Court and states that they shall take down the listings as per the Court's order.



7. In view of the above facts and circumstances, this Court is satisfied that plaintiff has made out a *prima facie* case for the grant of an *ex parte ad interim* injunction till the next date of hearing. Balance of convenience lies in favour of plaintiff, and they are likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

8. Accordingly, till the next date of hearing, following reliefs are granted in favour of plaintiffs and against defendants:

- a) Defendant nos. 4-17 (defendants who are selling these counterfeit books) are restrained from distributing, selling, promoting, the copyrighted books, in any manner whatsoever, on any medium physical or online.
- b) Defendant nos. 1, 2, 3, 18 and 19 (online platforms) are directed to delist all the sellers of counterfeit Copyright Books from their online platforms. For this purpose, plaintiff shall address communications to (defendant nos. 1, 2, 3, 18 and 19) indicating the specific URL's /listing under which such counterfeits are being sold. Upon receiving the said communication, said platforms shall take down the listings within 72 hours; if the platform has any reservations, they will revert back to the plaintiff in this regard, and plaintiff will be at liberty to approach this Court for further directions.

9. On steps being taken by plaintiff, issue notice to defendant through all permissible modes including speed post, courier, and email. Affidavit of service along with proof thereof be placed on record before the next date of hearing.



10. Reply, if any, be filed within six weeks with an advance copy to the counsel for plaintiff, who may file a rejoinder thereto, if so desired, before the next date of hearing.
11. Compliance with Order XXXIX Rule 3 of CPC be effected within one week.
12. Copy of the order be given under the signatures of the Court Master.
13. List before this Court on 07th October, 2024.
14. Copy of the order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 31, 2024/RK