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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 272/2018**
EASTERN BOOK COMPANY & ORS. Plaintiffs

Through: Mr. Rajshekhar Rao, Senior Advocate
with Mr. Kotla Harshavardhan,
Advocate.

versus

NAVIN J. DESAI & ANR. Defendants

Through: Mr. Sudeep Chatterjee, Rohan
Swarup, Ms. Tanya Arora and Ms.
Anjalika Arora, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
16.03.2023

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1. The present lawsuit, initiated in the year 2000, has finally progressed to a stage where a conclusive verdict is anticipated. In the interregnum, one of primary issue arising in the present suit (framed *vide* order dated 09th November, 2005), relating to Plaintiffs' copyright claim in six (6) unique categories of editorial inputs made to judgments of the Supreme Court (published in its law report "Supreme Court Cases"),¹ has been settled by the Apex Court in ***Eastern Book Company and Ors. v. D.B. Modak and Anr.***² The above legal proposition is not disputed by Defendants which in fact, has

¹ (i) Paragraphing i.e., segregating the existing paragraphs in the original text by breaking them into separate paragraphs; (ii) Paragraph numbering, paragraphing and in internal paragraph numbering within a judgment; (iii) Indicating in the judgment the Judges who have dissented or concurred by introducing the phrases like "concurring", "partly concurring", "partly dissenting", "dissenting", "supplementing", "majority expressing no opinion", etc.; (iv) Headnotes; (v) Footnotes, and (vi) Editorial notes. *Eastern Book Company and Ors. v. D.B. Modak and Anr.*, (2008) 1 SCC 1, ¶¶ 61.



whittled the controversy.

2. Mr. Sudeep Chatterjee, counsel for Defendants, very fairly agrees that after decision of the Supreme Court, Plaintiffs' copyrights are no longer in controversy. This Court is now to adjudicate the final tangible relief of damages. On this aspect, Mr. Chatterjee states that immediately after the injunction order was granted on 19th April, 2000, Defendants ceased selling infringing content/ CD-ROMs and only for a very brief period in the year-2001, they had manufactured hundred (100) Compact Discs Read-Only Memory ["CD-ROMs"], of which only fifteen (15) were sold. Thus, Defendants' liability, if at all, must be restricted/ quantified to sale of those fifteen (15) CD-ROMs only.

3. *Per contra*, Mr. Rajshekhar Rao, Senior Counsel for Plaintiffs, submits that it has come in evidence that Defendants continued to infringe Plaintiffs copyrighted works till year-2006. Further, he argues that Defendants indulged in infringement unabated, even after the injunction order, as is demonstrable from the vague responses given to the interrogatories issued to them.

4. Court has considered the above facts and submissions. Plaintiffs' copyrights in their headnotes, copy-editing and copy-edited texts of judgments of the Supreme Court, which includes footnotes and cross-referencing and typographic arrangement in their publications, is no longer an issue. Defendants acknowledge Plaintiffs' copyrights and state that they shall not infringe the same. Thus, the suit is decreed in favour of Plaintiffs and against Defendants *insofar* as prayers in paragraphs No. 36 (i) and (ii),

² (2008) 1 SCC 1.



are concerned. Registry is directed to draw up a decree in the above terms.

5. This brings us to computation of damages and other relief(s). For this purpose, it is useful to take note of Section 55 of the Copyright Act, 1957 which enables Plaintiffs to seek, *inter alia*, in any suit for infringement of copyright, damages and account of profits, notwithstanding injunction. Mr. Rao seeks time to advance submissions and demonstrate, based on documents on record, the period of infringement. On consideration thereof, the Court would then take a final view regarding prayers made in paragraphs No. 36 (iii) to (vi) of the Plaint.

6. Plaintiffs' written submissions are on record. Mr. Chatterjee seeks and is granted three weeks' time to file written submissions on behalf of Defendants on the aspect of computations of damages. The same shall not exceed five pages, along with relevant case law(s), in terms of IPD Rules. Counsel are also instructed to prepare a common convenience file containing relevant pleadings, documents, and evidence, on which they seek to place reliance upon, at least ten days before the next date of hearing.

7. The same shall be positively handed over and e-mailed to the Court Master within the above timelines.

8. For this purpose, re-notify on 17th April, 2023.

SANJEEV NARULA, J

MARCH 16, 2023/as

(Corrected and released on 24th March, 2023)