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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS (COMM) 697/2022 and I.A. 16467/2022-16470/2022

TTK PRESTIGE LTD

..... Plaintiff

Through: Mr. Hemant Singh, Ms. Mamta Rani
Jha, Mr. Manish Kumar Mishra, Mr.
Shakti Priyan Nair , Ms. Akansha
Singh and Mr. Srinivas Rangan,
Advocates. (M:9438804704)

versus

KCM APPLIANCES PRIVATE LIMITED

..... Defendant

Through: Mr. Jayant Bhushan, Sr. Advocate
with Mr. Anil Dutt, Ms. Vindhya S.
Mani, Ms. Justina Mathew, Mr.
Gursimran Singh Narula & Ms.
Vaishali Joshi, Advocates.
(M:9717065125)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **27.10.2022**

1. This hearing has been done through hybrid mode.

I.A. 16468/2022 (for additional documents)

2. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (*hereinafter*, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act. **I.A. 16468/2022** is disposed of.

I.A. 16469/2022 (u/S 12A)

3. This is an application seeking exemption instituting pre-litigation



mediation. In view of the orders passed in **CS (COMM) 132/2022** titled **Upgrad Education v. Intellipaate Software** and **CS (COMM) 582/2022** titled **Bolt Technology OU v. Ujoy Technology Private Limited & Anr.**, the application is allowed and disposed of.

I.A. 16470/2022 (exemption from advance service to the Defendant)

4. In view of the fact that the Defendant has already entered appearance this application becomes infructuous. **I.A. 16470/2022** is disposed of.

CS (COMM) 697/2022

5. Let the plaint be registered as a suit.
6. Issue summons to the Defendant through all modes upon filing of Process Fee.
7. The summons to the Defendant shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendant shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.
8. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiff, without which the replication 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.
9. List before the Joint Registrar for marking of exhibits on 2nd December, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.
10. List before Court on 14th December, 2022.



I.A. 16467/2022(for stay)

11. The present suit seeks to restrain the Defendant from infringing the Registered Design of the Plaintiff, bearing Registration No. 324727-001 as also reliefs of delivery up of the infringing goods and rendition of accounts of profit.

12. Ms. Justina Mathew, Id. Counsel enters appearance on behalf of the Defendant. The Defendant relies on a YouTube video of November 2019, to challenge the validity of the Design Registration of the Plaintiff, on the ground that it is prior published. At this juncture, Id. Counsel for the Plaintiff, however, submits that the Plaintiff also has other designs which are part of the YouTube video which the Defendant has also imitated.

13. The Court has perused the design registration of the plaintiff and some of the products which are based on the Design Registration have been showed to the Court. Considering the overall perspective, the Defendant is directed to file a short reply to the injunction application within two weeks placing on record all the material which they rely upon to argue against the validity of the Registered Design on the ground of prior publication and non-infringement. Plaintiff is also permitted to place on record its other Design registrations, if any, it is relying upon. Copies of those design certificates be handed over by the Id. Counsel for the Plaintiff along with the index to the Id. Counsel for the Defendant by 31st October, 2022. Plaintiff to take steps if it is relying on any other design in accordance with law, in the present suit.

14. In the meantime, the Defendant to maintain and file accounts along with its reply of the sales made of the impugned pressure cooker manufactured by it.



15. List before Court for hearing of the interim injunction application on 14th December, 2022.

OCTOBER 27, 2022
dj/am/sk/ms

PRATHIBA M. SINGH, J.