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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 847/2022 & I.A. 20605/2022, I.A. 5381/2023, I.A. 11959/2023, I.A. 11962/2023, I.A. 34261/2024**
MR. M.K. SRINIVASAN & ANR.Plaintiffs

Through: Ms. Swathi Sukumar, Mr. Essenese O., Ms. Yogita Rathore, Ms. Ayesha Guhathakurta & Mr. Ritik Raghuwanshi, Advocates

versus

MR. MAGESH JAYARAMAN & ORS.Defendants

Through: Ms. Rajeshwari H. and Mr. Tahir A.J., Advocates for D-1 & D-2
Ms. Mani Gupta, Mr. Pranav Malhotra and Ms. Garima Sharma, Advocates for D-3

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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26.11.2024

I.A. 20605/2022 (Order XXXIX Rule 1 & 2)

I.A. 5381/2023 (Vacation of Order dated 07.12.2022 by D-1 & D-2)

I.A. 11959/2023 (Vacation of Order dated 07.12.2022 by D-3)

I.A. 11962/2023 (for directions)

1. Counsel appearing on behalf of the defendants submit that they do not wish to press the I.A. 5381/2023, I.A. 11959/2023 and I.A. 11962/2023 if a direction for expeditious trial is ordered in the suit and the contentions raised in the aforesaid applications are permitted to be raised in the trial.
2. Counsel for the plaintiffs is also agreeable to the same.
3. I am inclined to accept the aforesaid submission. Accordingly, I.A.



5381/2023, I.A. 11959/2023 and I.A. 11962/2023 are disposed of as not pressed.

4. Accordingly, interim order passed by this Court on 07.12.2022 is confirmed till the final adjudication of the case.

4.1 I.A. 20605/2022 stands disposed of.

CS(COMM) 847/2022 and I.A. 34261/2024 (for directions)

5. Based on the pleadings of the parties, the following issues are framed in the suit:

- i. Whether the captioned suit filed by the plaintiffs is liable to be dismissed and returned as this Hon'ble Court does not have the territorial and pecuniary jurisdiction to try and adjudicate on the subject matter of the dispute? OPD
- ii. Whether the defendants have infringed the plaintiffs' suit patent IN 336440? OPP
- iii. Whether the plaintiffs have a copyright over para 'Introduction' contents of instruction manual of the product Taurus Digitrace DC P Series (361/451) Version 9? OPP
- iv. If yes, whether the defendants are in breach of the copyright of plaintiffs in respect of the instructions manual of the product Taurus Digitrace DC P Series (361/451) Version 9? OPP
- v. Whether the plaintiffs are entitled to account of profits received by the defendants from sale of its product? OPP
- vi. Whether the plaintiffs are entitled to damages for an amount of Rs.2,00,00,000 (Rupees Two Crore) from the defendants? OPP
- vii. Whether the suit patent in respect of "DC Ground Fault Locator MGFL" and "DC Ground Fault Locator DGL – 1M" is liable to be



revoked/cancelled as being not an invention within the meaning of Patents Act, 1971, as submitted in the Written Statement filed by the defendants? OPD

viii. Cost and relief.

6. No other issue arises or is pressed for.

7. Counsel for the parties submit that the exhibits have not been marked yet.

8. List before the Joint Registrar for marking the exhibits on 11th December, 2024.

9. Parties shall file their respective list of witnesses within four (4) weeks from today.

10. The plaintiffs shall file evidence of their witnesses by way of affidavits within six (6) weeks from today.

11. I am in agreement with the counsel for the parties that there should be expeditious trial in the suit. The parties submit that a Local Commissioner be appointed for recording of evidence in the suit.

12. In view of the above, Mr. Arun K Arya, Additional District Judge (Retd.) (Mobile No. - +91 9910384687) is appointed as Local Commissioner for recording evidence in the present case. Fees of the Local Commissioner is fixed at an hourly rate of Rs.15,000/- per hour, apart from incidental expenses, which shall be borne by the parties in the following ratio:

- i. 50% of the total fees by the plaintiffs.
- ii. 25% of the total fees by the defendants no.1 and 2.
- iii. 25% of the total fees by the defendant no.3.

13. In view of the above, the following directions are being passed:



- i. Keeping in mind the aforesaid schedule, the parties shall approach the Local Commissioner to fix the dates of trial in the matter.
 - ii. The Local Commissioner will endeavour to complete the recording of evidence within a period of six months from today and will also ensure that no unnecessary adjournment is granted to any of the parties.
 - iii. In case any adjournment is taken by one of the parties, the said party shall bear the costs of the said sitting. The Local Commissioner shall decide whether the adjournment is on account of the party/parties.
 - iv. Registry shall make available the record of the case to the Local Commissioner. The evidence shall be recorded in the Court premises. However, in case court premises is not required or necessary and if agreed between the parties, the recording of evidence will take place at any other venue, to be arranged by the plaintiffs.
 - v. Parties shall render all assistance to the Local Commissioner for recording of evidence.
14. A copy of this order be sent to the Local Commissioner and the same also be made available to the counsel for the parties, to enable them to approach the Local Commissioner.

AMIT BANSAL, J

NOVEMBER 26, 2024
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