



\$~42

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

+ **CS(COMM) 676/2023 with I.A. 43119/2024, I.A. 43480/2024 and
I.A. 43481/2024**

JAINEMO PRIVATE LIMITEDPlaintiff

Through: **Mr. Mayank Wadhwa, Advocate**

versus

RAHUL SHAH AND OTHERSDefendants

Through:

**Mr. Tejas Karia, Ms. Swati Agarwal,
Mr. Shashank Mishra, Mr. Mohit
Singh, Mr. Vaarish Sawlaan and Ms.
Aratrika Brahmachari, Advocates for
D-19.**

**Mr. Mrinal Ojha, Mr. Debarshi Dutta,
Ms. Nikita Rathir and Mr. Samyak
Bilala, Advocates for D-28**

**Mr. Varun Pathak, Mr. Amit Rana
and Mr. Dhruv Bhatnagar, Advocates
for D-31.**

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

%

28.10.2024

I.A. 43480/2024 (Order VI Rule 17, CPC)

1. This application has been filed under Order VI Rule 17 of the Code of Civil Procedure (hereinafter, 'CPC') seeking to amend the plaint.
2. The present application has been moved pursuant to the application filed by the plaintiff under Order I Rule 10 of CPC which was allowed on 16th October, 2024. The amendment is necessitated on account of additional



parties added as defendants in the suit being the defendants no.31 to 45.

3. Issue notice.

4. Mr. Tejas Karia accepts notice on behalf of the defendant no.19 (WhatsApp), Mr. Varun Pathak accepts notice on behalf of the defendant no.31 (Instagram) and Mr. Mrinal Ojha accepts notice on behalf of the defendant no.28 (Go Daddy LLC).

5. The suit is still at an early stage.

6. Accordingly, the application is allowed and the amended plaint filed along with the application is taken on record.

I.A. 43119/2024 (Order XXXIX Rule 1 and 2 of CPC)

7. In view of a fresh application under Order XXXIX Rule 1 and 2 of CPC filed on behalf of the plaintiff, the counsel for the plaintiff seeks to withdraw this application.

8. The same is dismissed as withdrawn.

CS(COMM) 676/2023

9. In view of the amended plaint being taken on record, summons be issued to the newly added defendants no.31 to 45.

10. Mr Varun Pathak, counsel appearing on behalf of the defendant no.31 accepts summons and waives issuance of formal summons.

11. Summons be issued to the remaining defendants through all permissible modes including e-mail. The summons shall state that the written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendants shall also file an affidavit of admission/denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.



12. Liberty is also given to the remaining defendants to file amended written statement(s) to the amended plaint within thirty (30) days.

13. Liberty is given to the plaintiff to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

14. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

15. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar on 17th November, 2024.

17. List before Court on 7th February, 2025.

18. The earlier dates fixed before the Joint Registrar of 6th November, 2024 as well as 5th November, 2024 and 19th November, 2024 before the Court stand cancelled.

I.A. 43481/2024 (Order XXXIX Rule 1 and 2 of CPC)

19. The present suit has been filed for permanent injunction, rendition of accounts and damages for the infringement of the exclusive rights in the plaintiff's original content/work, which is protected under the Copyright Act, 1957.

20. On 27th September 2023, this Court granted an *ad-interim* injunction in favour of the plaintiff and against the defendants no.1 to 14, 24, 25, 29 and 30, restraining the said defendants from downloading, uploading,



storing, sharing, transmitting, selling, offering for sale, storing or utilizing any of the course material of the plaintiff.

21. Thereafter, the plaintiff came across more such entities/platforms that were illegally storing, sharing, selling and updating plaintiff's course material. Such entities/platforms were impleaded as defendants no.31 to 45 via order dated 16th October 2024.

22. Issue Notice.

23. Mr. Tejas Karia accepts notice on behalf of the defendant no.19 (WhatsApp), Mr. Varun Pathak accepts notice on behalf of the defendant no.31 (Instagram) and Mr. Mrinal Ojha accepts notice on behalf of the defendant no.28 (Go Daddy LLC).

24. Notice be issued to the remaining defendants via all permissible modes, including e-mail.

25. Reply(ies) be filed within four (4) weeks.

26. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.

27. In **Neetu Singh v. Telegram FZ LLC** [CS (Comm) 282/2020, decision dated 30th August 2022] this Court addressed some of the challenges arising from unauthorised use and sharing of video lectures, books and other educational materials on the Telegram platform. In the present case as well, the defendants have used various techniques in order to communicate and disseminate the plaintiff's courses, videos and course material.

28. In the present case, the plaintiff holds ownership over the course material, falling within the category of "literary works" as defined by Section 2(o) of the Copyright Act, 1957. The videos of the plaintiff on various subjects also qualify as "cinematographic films" under Section 2(f)



of the Copyright Act, 1957. Consequently, both "literary works" and "cinematographic films" receive protection under Sections 2(o) and 2(f) of the Copyright Act, 1957. Moreover, Section 14 of the Copyright Act acknowledges exclusive rights that belong to the copyright holder. Given that the plaintiff's works are safeguarded by the Copyright Act, 1957, any unauthorized distribution or communication, whether in print or electronic form, would amount to copyright infringement.

29. This Court is of the opinion that a *prima facie* case is made out in favour of the plaintiff. Balance of convenience is also in favour of the plaintiff. Further, irreparable harm or injury would be caused to the plaintiff if an *ex-parte ad-interim* injunction order is not passed, in as much as the defendants continue to disseminate the copyrighted material of the plaintiff.

30. Accordingly, the defendants no.32 to 44, their owners, its directors, employees, servants, agents, distributors, partners, franchises, representatives, suppliers, affiliates, subsidiaries, franchisees, licensees, representatives, group companies and assigns are restrained from downloading, re-uploading, storing, sharing, transmitting, selling, offering for sale, storing or utilizing the course material of the plaintiff, in any form, on various platforms such as Instagram, Facebook, WhatsApp, Google Drive, or such platforms, multimedia messaging services, social media platforms, cloud storage, etc. or in any manner, reproducing or publishing the course material in which the plaintiff has copyright either in part, or in whole.

31. Defendants no.32 to 44, their owners, its directors, employees, servants, agents, distributors, partners, franchises, representatives, suppliers, affiliates, subsidiaries, franchisees, licensees, representatives, group



companies and assigns be directed to delete/remove the infringing material from all storage devices, including but limited to cloud storage facilities, pen drives, mobile devices, computer devices, compact disks, external hard drives etc.

32. Defendant no.19 is directed to action the WhatsApp accounts of the defendants no.40 and 44 associated with mobile numbers +92 3172213143 and +91 77758 55422 respectively, as identified by the plaintiff in paragraph nos.24 and 34 of the application, as the plaintiff has placed screenshots on record showing circulation of unlawful content through the above-mentioned numbers at pages, 23, 25, and 31 to 34 of the application.

33. In the event the plaintiff discovers any additional WhatsApp account(s) and/or group(s) circulating infringing content on WhatsApp service, the plaintiff will provide (a) evidence in form of screenshots showing circulation of infringing content; and (b) the identifiers for WhatsApp accounts the account numbers, and for WhatsApp groups - group name, invite link and/or administrator account number(s) through which the infringing content is being circulated, after which the Court may pass appropriate directions.

34. Defendants no.32 to 38 being operators of Instagram handles (identified by URLs) and the defendant no.40, being the operator of a Facebook page (identified by URL) are directed to action all infringing material, details of which are provided in paragraphs 12 to 21, 23 and 24 of the application.

35. In the event, the defendants no.32 to 38 and the defendant no.40 fail to comply with the direction above, the plaintiff may intimate the defendant no.31. Upon being notified by the plaintiff, the defendant no.31 be directed



to action the Instagram URLs identified for the defendants no.32 to 38 and the Facebook URL identified for the defendant no.40.

36. In the event the plaintiff discovers any additional infringing content on the Facebook or Instagram services, it may notify defendant no.31 of the same by sharing the relevant URLs. If this content is identical to the infringing content already directed to be actioned by the Court in the interim order, the defendant no.31 shall action the URLs notified by the plaintiff. However, the defendant no.31 would have the liberty to oppose any requests for actioning of URLs that do not lead to identical content. In such a case, the plaintiff may approach the Court for seeking appropriate directions for actioning of such additional infringing content.

37. Defendant no.31 is directed to share 'basic subscriber information' (BSI) for the defendants no.32 to 38 (being Instagram handles identified through URLs) and the defendant no.40 (being a Facebook page identified through URL). This BSI shall be disclosed by the defendant no.31 in a password-protected file/ sealed cover to the plaintiff and in the Court within three (3) weeks. The plaintiff may use this BSI to identify the operators of the said Instagram handles and Facebook page.

38. In case the plaintiff discovers any additional Facebook pages/ accounts or Instagram handles that are sharing the infringing content already directed to be actioned by the Court by way of Court's interim order, the plaintiff may identify them through URLs and file an appropriate application for directions to the defendant no.31 for production of BSI in password-protected file/ sealed cover.

39. Defendant no.28 is directed to lock and suspend the domain "tagmango.com" (Defendant no.42) and provide its registrant details.



40. Defendant no.23 is directed to lock and suspend the domain “Turbopayz.com” (Defendant no.43) and provide its registrant details.
41. Defendant no.45 is directed to lock and suspend the domain “nsutcourse.com” (Defendant no.41) and provide its registrant details.
42. In case the plaintiff discovers any other websites/domain names that are sharing the infringing content already directed to be actioned by the Court by way of Court's interim order, the plaintiff may identify them and file an appropriate application for directions to the defendants no.23, 28 and 45 for production of registrant details.
43. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) shall be filed within one (1) week from today.
44. List before the Joint Registrar on 17th November, 2024.
45. List before the Court on 7th February, 2025.

AMIT BANSAL, J

OCTOBER 28, 2024
ds