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

+ **CS(COMM) 628/2023 & I.A. 37937/2024**

ITW GSE APS & ANR.

.....Plaintiffs

Through: Mr. Pravin Anand, Mr. Anirudh Bakhru, Ms. Vaishali R Mittal, Mr. Siddhant Chamola, Mr. Gursimran Singh and Ms. Saijal Arora, Advocates

Mob: 9872000836

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gursimran@anandandanand.com

versus

DABICO AIRPORT SOLUTIONS PVT LTD & ORS.Defendants

Through: Mr. Himanshu Bagai, Mr. Kushal Gupta, Ms. Deepshikha Sarkar, and Ms. Bhanu, Advocates for D-1, 2 and 3

Mob: 9250338066

Mr. Rohan Swarup, Mr. Rakesh Karela, Mr. Jaydeep Roy, Mr. George Vithayathil, Advocates for D-4. (M:9106650461)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

11.11.2024

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1. Learned counsel appearing for the plaintiffs has drawn the attention of this Court to Para 138 (b) of the judgment dated 4th July, 2024, wherein, there were directions to the defendants to file an affidavit disclosing their



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turnover, from the existing deployment of the model number PDX 60IS or any other product i.e. a Pre-conditioned Air Unit (PCA), which infringes the plaintiffs' registered patent no. *IN 330145*, within a period of 4 weeks in a sealed cover.

2. Learned counsel appearing for the plaintiffs submits that though defendant nos. 1 and 2 have filed their affidavit, the same was incomplete and false. He further submits that defendant no. 3 has not even filed the affidavit in terms of judgment dated 4th July, 2024.

3. Learned counsel appearing for the plaintiffs further submits that as regards defendant no. 4 is concerned, though an affidavit has been filed in a sealed cover before this Court, however, no service to the plaintiffs has been done as yet. He submits that the import of the judgment dated 4th July, 2024, was to the effect of filing the affidavit in a sealed cover for non-disclosure to a third party and not *qua* the plaintiffs.

4. He further submits that defendant nos. 1 and 2 have duly filed the affidavit in a sealed cover and served the same to the plaintiffs. However, the defendant no. 4 has refused to serve copy of the affidavit filed in sealed cover to the plaintiffs.

5. Per contra, learned counsel appearing for defendant nos. 1 and 2 vehemently refutes the submission that the affidavit filed by defendant nos. 1 and 2 was incomplete or false.

6. Similarly, learned counsel appearing for defendant no. 3 submits that defendant no. 3 is not a manufacturer and there is no deployment of this patent by defendant no. 3 in India.

7. He further submits that an application for deletion of defendant no. 3 is already pending before this Court.



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8. Likewise, learned counsel appearing for defendant no. 4, in response to the submissions of the plaintiffs, submits that to their understanding, the affidavit was required to be filed in a sealed cover, without service to the plaintiffs.

9. Therefore, he submits that defendant no. 4 has acted as per its understanding of the order. He submits that there is no non-compliance by defendant no. 4.

10. On the other hand, learned counsel appearing for the plaintiffs submits that the submissions of the defendants clearly bring to light that the defendants are in contempt.

11. At this stage, learned counsel appearing for the defendants submits that an appeal against the judgment dated 4th July, 2024, has been filed, which is pending before the learned Division Bench, the next date, being 20th December, 2024. Therefore, they submit that this Court ought to await the decision of the learned Division Bench.

12. Responding to the aforesaid submission, learned counsel appearing for the plaintiffs submits that the fact of not complying with the directions, as given in the judgment dated 4th July, 2024, may be allowed to be mentioned before the Division Bench, by the plaintiffs.

13. The plaintiffs are at liberty to make their submission in this regard before the learned Division Bench, as and when the matter comes up for hearing before the learned Division Bench.

14. This Court notes that admission-denial and marking of exhibits in the present matter, is yet to take place.

15. Accordingly, list for admission-denial of documents and marking of exhibits before the Joint Registrar (Judicial), on 16th December, 2024.



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16. List before the Court on 27th February, 2025.

MINI PUSHKARNA, J

NOVEMBER 11, 2024
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