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

+ **CS(COMM) 974/2024**

M/S DATABRICKS LIMITED

.....Plaintiff

Through: Mr Anirudh Bakhru and Mr Vedit
Garg, Advocates.

versus

M/S INDO WINGS PVT LTD. AND ANR

.....Defendants

Through: Mr Kavesh Nair with Ms Stuti Karwal,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **04.11.2024**

I.A. 43958/2024 (under Section 151 CPC)

1. Allowed, subject to all just exceptions.

I.A. 43957/2024 (by the plaintiff under Section 12A of Commercial Courts Act, 2016 read with Section 151 CPC)

2. Issue notice. Learned counsel appearing on advance service accepts notice on behalf of the defendants.

3. Learned counsel for the plaintiff submits that an urgent relief has been sought in the present suit whereby the defendants have been sought to be restrained from marketing / selling or participating in tenders with regard to plaintiff's product. He further submits that an application has also been filed seeking appointment of the Local Commissioner to visit the business premises of the defendants and to prepare an inventory.



4. Considering the submissions of the learned counsel, as well as, regard being had to the averments made in the application, the same is allowed.

5. The application stands disposed of.

I.A. 43956/2024 (by the plaintiff under Order II Rules 2 & 3 read with Section 151 CPC for claiming complete damages for breach of collaboration agreement)

6. Issue notice. Learned counsel appearing on advance service accepts notice on behalf of the defendants.

7. Let reply to the application be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

8. List before Court on 15.01.2025.

I.A. 43955/2024 (by the plaintiff under Order XI read with Section 151 CPC for appointment of receiver)

9. Issue notice. Learned counsel appearing on advance service accepts notice on behalf of the defendants.

10. Let reply to the application be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

11. List before Court on 15.01.2025.

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12. The plaint be registered as a suit.

13. Issue summons. Learned counsel appearing on advance service accepts summons on behalf of the defendants and waives the formal service of summons. He submits that copy of the plaint, applications and documents have been received by the defendants.

14. Let written statement be filed within thirty days from today. The defendants shall also file an affidavit of admission/denial of the documents



filed by the plaintiff, failing which the written statements shall not be taken on record.

15. The plaintiff is at liberty to file replication thereto within thirty days after filing of the written statements. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.

16. It is made clear that any unjustified denial of documents may lead to an order of cost against the concerned party.

17. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

18. List before the learned Joint Registrar for completion of pleadings, admission/denial of documents and marking of exhibits on 24.01.2025.

19. List before Court on 04.03.2025.

20. At this stage, learned counsel for the parties jointly submit that there is also likelihood of the dispute being amicably resolved in case the parties are referred to mediation.

21. Accordingly, the parties are referred to mediation under the aegis of the Delhi High Court Mediation and Conciliation Centre. The parties are directed to appear before the Centre on 12.11.2024 at 03.00 PM.

I.A. 43953/2024 (by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 CPC for ad-interim injunction)

22. This is an application filed by the plaintiff seeking grant of *ad-interim* injunction.

23. Issue notice. Learned counsel appearing on advance service accepts notice on behalf of the defendants.

24. Learned counsel for the defendants submits that the defendants have no



intention of selling the equipment in question. The statement is taken on record.

25. He further submits that the equipment supplied by the plaintiff were sub-standard and are not marketable. This position is, however, disputed by the learned counsel for the plaintiff.

26. Learned counsel for the plaintiff submits that in view of the statement of the learned counsel for the defendants in para 24 above, he is not pressing for the *ex-parte* injunction at this stage.

27. Let reply to the application be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

28. List before Court on 15.01.2025.

I.A. 43954/2024 (by the plaintiff under Order XXVI Rule 9 read with Section 151 CPC for appointment of Local Commissioner)

29. By way of present application, the plaintiff has prayed for the appointment of Local Commissioner to visit the place of business of the defendants to inspect as well as inventorise equipment in question and file a report.

30. Issue notice. Learned counsel for the defendants accepts notice.

31. Learned counsel for the plaintiff submits that the plaintiff is in the business of research and development of drone parts, advanced anti-drone systems and defence solutions whereas the defendant no.1 is a company which used to be a marketing agent/dealer of the plaintiff in India and used to participate in the tenders on behalf of the plaintiff.

32. The defendant no.2 is a director of the defendant no.1. He submits the plaintiff had dispatched eight items/equipment to the defendant no.1 exceeding Rs.11.75 crores in value between 01.05.2024 and 05.08.2024. He



submits that no payment towards the equipment has been made by the defendant no.1 nor the defendant no.1 has returned the said equipment. He, however, adds that the plaintiff apprehends that the equipment has been damaged at the end of the defendants. He, therefore, urges the Court to appoint a Local Commissioner to visit the business premises of the defendants for the purpose mentioned above.

33. Learned counsel for the defendants submits that without prejudice to the rights and contentions of the defendants, he has no objection in case the Local Commissioner, as prayed, is appointed.

34. He further submits that the equipment supplied by the plaintiff was sub-standard and are not in marketable condition, which position is disputed by the learned counsel for the plaintiff.

35. In view of the above, Mr. Kamal Rattan Digpaul, Advocate (Mobile No. 9582543344) is appointed as Local Commissioner to visit the business premises of the defendant at - (i) A-21, Sector-60, Noida, UP-201301 and (ii) DPT 802, F-79 & 80, DLF Prime Tower, Okhla Phase-I, New Delhi-110020. The Local Commissioner is directed to inspect and prepare an inventory of the entire equipment supplied by the plaintiff to the defendants which is lying at the aforesaid premises. He shall also take photographs of the equipment.

36. The commission shall be executed by the Local Commissioner in the presence of the representatives of both the parties. The parties are directed to cooperate with the Local Commissioner in the execution of the commission. The fee of the Local Commissioner is fixed at Rs.2 lakhs, which shall be borne by the plaintiff.

37. After execution of the commission, let the report be filed by the Local Commissioner within a period of four weeks along with the photographs.



38. The application stands disposed of.

NOVEMBER 4, 2024/MK

VIKAS MAHAJAN, J