



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS(OS) 398/2016 and I.A. No. 9643/2016

SPICEJET LIMITED

..... Plaintiff

Through: Mr. Kshitiz Khera, Advocate

versus

MR SANTOSH KUMAR SINGH

..... Defendant

Through: Mr. Chandra Shekhar Yadav,
Advocate

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

%

02.04.2018

1. The suit is listed for framing of issues. Counsels for the parties have been heard. The following are the relief clauses of the said plaint in terms of the averments made in the suit plaint:-

- a. "Pass a decree of permanent and mandatory injunction in favour of the Plaintiff and against the defendant that:
 - (i) The Defendant be restrained from taking up employment with any third party including the competitor airline without serving the notice period to the Plaintiff in terms of the Employment Agreement; and
 - (ii) The Defendant be restrained from revealing any confidential information concerning the



- business strategies, commercial, revenue decisions or the organisation structure of the Plaintiff to any third party including the competitor airline; and
- (iii) The Defendant be restrained from approaching/enticing in any manner the clients/customers, service providers or suppliers of goods and services to the Plaintiff especially the parties referred in Para 14 of the plaint and diverting them to the competitor airline or any third party; and
 - (iv) The Defendant be restrained from acting as the agent/representative of Plaintiff to any third party including the competitor airline; and
 - (v) A decree for damages in favour of the Plaintiff and against the Defendant on account of loss of business, reputation and goodwill of the Plaintiff arising out of use of confidential and commercially sensitive information caused by the activities of the Defendant; and
- b. Award costs of the suit in favour of the Plaintiffs and against the Defendant; and
- c. Pass any other order and/or further order/s as deemed fit in the present facts and circumstances.”

2. Learned counsel for the plaintiff was heard with respect to the reliefs (i), (ii), (iii) and (iv). After hearing the counsel for the plaintiff, counsel for the plaintiff took over a passover to take instructions from the plaintiff. After passover when this matter is taken up it is agreed that the plaintiff does not press reliefs (i) to (iv), which is of course without prejudice to the right of the plaintiff to



lead evidence and prove his claim for a decree of damages which is subject matter of relief (v). Giving up of reliefs (i) to (iv) is in view of the statement made on behalf of the defendant that the defendant has never used and will not use in future any private confidential information of the plaintiff which is not in public domain. This statement will bind the defendant and accordingly defendant is restrained from using any private confidential information of the plaintiff which is not in public domain, without of course in any manner observing or concluding that the defendant has done so in the past or will do so in the future.

3. Statement of counsel for the defendant is also recorded, and he is accordingly restrained and which will bind the defendant, that the defendant has not in the past nor in the future would represent himself as agent or representative of the plaintiff after the defendant has left the services of the plaintiff but the recording of this statement on behalf of defendant will not prejudice in any manner either of the parties for proving or getting dismissed the relief which the plaintiff claims of damages on account of use by defendant of private confidential information of the plaintiff which is not in public



domain.

4. Accordingly, now since only prayer (v) of the plaint remains along with the relatable cause of action as stated in the plaint, the following issues are framed:-

(1) Whether this Court has territorial jurisdiction? OPP

(2) Whether the plaintiff is entitled to any damages against the defendant on account of defendant using in any manner the private confidential information of the plaintiff which is not in public domain? If so, what amount? OPP

(3) Whether the plaintiff is entitled to interest, if so at what rate and for what period? OPP

(4) Relief.

5. Parties will file their list of witnesses within four weeks. Plaintiff will file affidavit by way of evidence of its witness, which is first to be examined and cross-examined by the defendant, within six weeks.

6. List before the Joint Registrar for fixing the dates of trial on 9th July, 2018.

VALMIKI J. MEHTA, J

APRIL 02, 2018/ns