

OCD-3

ORDER SHEET

CS-COM/111/2024
[Old No.CS/78/2018]
IA No.GA-COM/9/2024

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
[Commercial Division]

INDIAMART INTERMESH LIMITED
-VS-
ANKIT & ORS

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : April 16, 2024.

Appearance:

Mr. S. K. Bajoria, Adv.
... for the plaintiff

Mr. Soumya Roy Chowdhury, Adv.
Mr. Amitesh P. Ray, Adv.
... for the defendant no.3

Ms. Pooja Sah, Adv.
Ms. A. Choudhury, Adv.
Ms. G. Verma, Adv.
... for the defendant no.21

Mr. Neel Mason, Adv.
Mr. Phiroze Edulji, Adv.
Ms. Priyanka Bhattacharya, Adv.
... for the defendant no. 27

The Court: Mr. S. K. Bajoria, learned counsel, is appearing for the plaintiff. Mr. Soumya Roy Chowdhury, learned counsel, is appearing for the defendant no.3. Ms. Pooja Sah, learned counsel, is appearing for the defendant no.21 and Mr. Neel Mason, learned counsel, is appearing for the defendant no.27 through video conference.

Counsel for the plaintiff has handed over the service report dated 27th February, 2024 along with a note prepared by the counsel for the plaintiff showing the service of writ of summons upon the defendants.

After going through the service report and the note prepared by the counsel for the plaintiff, it is found that out of 27 defendants, writ of summons was served only upon the defendant nos.1, 2, 3, 11, 13, 21, 26 and 27, out of which defendant nos. 3, 21 and 27 are appearing.

Counsel for the plaintiff submits that the plaintiff has again applied for the report from the office of the Sheriff with regard to further service of notice upon the defendants against whom the notice has not been served but the plaintiff has not received any report and accordingly, he prays for time to obtain report. Counsel for the plaintiff also prays for time to obtain report from the department to ascertain whether the defendant nos.1, 2, 11, 13 and 26 have entered appearance or not.

In view of the above, the plaintiff is granted leave to file report with regard to the service of notice upon the rest of the defendants as well as the report whether the defendants to whom the notices have been served have appeared or not. Let the said report be filed within two weeks.

Counsel for the plaintiff has drawn the attention of this Court to the order dated 17th September, 2018 passed in GA/1020/2018 in CS/78/2018 wherein this Court has recorded *"The proposed terms of settlement handed over to Court is taken on record. Since the other defendants have not filed any affidavit in spite of directions the interim order passed on 16th May, 2018 stands confirmed"*. As the terms of settlement which has been recorded in the order dated 17th September,

2018 is not on record, accordingly, the department is directed to place the record of GA/1020/2018 before this Court along with CS/78/2018 on the next date fixed.

The defendant no.3 has submitted an affidavit stating as follows :

AFFIDAVIT

I, SHANMUGA KAVITHA SUBRAMANIAN, wife of Suresh Narayanan, aged about 42 yrs. currently residing at 1122, Winter Storm Dr., Henderson, Nevada, United States of America -89052 do hereby solemnly affirm and declare as under:-

1. That I have been arrayed as Defendant No.3 in the matter of Indiamart Intermesh Limited vs Ankit & Ors. being C.S. No. 78 of 2018, pending before the Hon'ble High Court at Calcutta.
2. That pursuant to the Order dated 12 March, 2024 passed by the Hon'ble High Court, Calcutta in C.S. No. 78 of 2018, I hereby unequivocally and unconditionally undertake not to use the trademark "INDIAMART" and/or any part thereof for any purpose whatsoever, in the future.

I state that the above made statement in paragraph 1 and 2 are true to my knowledge.

IN WITNESS WHEREOF I have hereto set and subscribed my respective hand and sign the day month and year first above written.

SIGNED SEALED AND DELIVERED

By me in Nevada, USA on 05 April, 2024:

The copy of the affidavit is also served to the learned counsel for the plaintiff. In terms of the affidavit filed by the defendant no.3 wherein the defendant no.3 unequivocally and unconditionally undertakes that she will not use the trademark "INDIAMART" and/or any part thereof for any

purpose whatsoever, in the future. Thus, this Court finds that no purpose would be served by keeping the defendant no.3 on record. Accordingly, the name of the defendant no.3 is deleted from the array of the cause-title of the plaint of CS-COM/111/2024 (Old No.CS/78/2018).

The plaintiff is directed to take appropriate steps to amend the cause-title of the plaint by deleting the name of the defendant no.3 from the cause-title and the plaintiff is given liberty to file reverified and reaffirmed affidavit within two weeks after the amendment carried out by the department.

The original affidavit filed by the defendant no.3 dated 5th April, 2024 be kept with the record.

Counsel for the defendant no.21 submits that in terms of the leave granted by this Court on 12th March, 2024, the defendant no.21 has prepared the supplementary affidavit but there is a delay of three days to file the same in terms of the order passed by this Court and prays for leave for acceptance of the supplementary affidavit.

Considering the submission made by the counsel for the defendant no.21, let the supplementary affidavit filed by the defendant no.21 be kept with the record after serving copy to the learned counsel for the plaintiff.

Counsel for the defendant no.21 further submits that the written statements has been prepared and it was apostiled at France and it is in the French language due to which the department is not accepting the said written statement and prays for acceptance of the written statement.

In view of the submission made by the counsel for the defendant no.21, the department is directed to accept the written statement, if any, filed by the defendant no.21 which has been apostiled in the French language in course of the day. The defendant no.21 is directed to serve the copy of the written statement to the learned counsel for the plaintiff in course of the day.

Counsel for the defendant no.21 submits that they have prepared the written statement and it was apostiled at France due to which the defendant no.21 has not filed the statement of truth along with list of documents and prays for three weeks time to file the statement of truth along with affidavit of documents.

Considering the submission made by the counsel for the defendant no.21, leave is granted to the defendant no.21 to file the statement of truth along with affidavit of documents within three weeks from date after serving the copy to the learned counsel for the plaintiff.

Let the matter appear on 10th May, 2024 along with GA-COM/9/2024

(KRISHNA RAO, J.)

RS