

OCD-1

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

IA NO. GA-COM/9/2024
[OLD NO. CS/78/2018]
In CS-COM/111/2024

INDIAMART INTERMESH LIMITED
Vs
ANKIT & ORS

BEFORE:
The Hon'ble JUSTICE SUGATO MAJUMDAR
Date : 4th October, 2024.

Appearance:
Mr. S.K. Bagaria, Adv.
...for the plaintiff

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

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

The Court:- GA-COM/9/2024 is filed by the defendant no. 21 praying for setting aside of the Order dated 18.3.2019 passed in GA/604/2019 in the suit and vacating the injunction passed therein, so far as the present petitioner is concerned. There is an alternative prayer of modification/variation of the said Order dated 18.3.2019 passed in GA/604/2019 in CS/78/2018, the original suit.

In terms of the Order dated 18.3.2019 Co-ordinate Bench allowed prayer (a) of GA/604/2019. The prayer (a) was as follows:-

“a. An order be passed directing the Ministry of Electronics and Information Technology, Government of India to take appropriate measures to make defunct and take down the links provided by the Petitioner to the Ministry from the World Wide Web and the domain names which are deceptively similar to the trademark of the Petitioner as could be identified by the Petitioner to the Ministry through the email address – legal@indiamart.com from time to time.”

Subsequently, the plaintiff as well as the defendant no. 21, being the petitioner, entered into settlement terms of which are filed before this Court for passing necessary order modifying the previous Order dated 18.3.2019.

On hearing both the Counsels, the Order dated 18.3.2019 passed in GA/604/2019 in CS/78/2018 is varied to the extent that the plaintiff (Indiamart) may be directed in the first instance to notify the Petitioner (Dailymotion) about any allegedly infringing or offensive contention its website/platform by sending an email from its email address legal@indiamart.com with such offending/infringing URL to the email ID dailymotion-in_grievance-officer@dailymotion.com and Dailymotion shall remove the said URL(s) from its website/platform within 36 hours of receiving such afore-stated email/notification. In the event, Dailymotion does not take down the said offending/infringing URLs within 36 hours of receipt of the email/notification, the Plaintiff (Indiamart) has all the rights to take appropriate measures/actions under law against the Petitioner (Dailymotion).

It is clarified that this modification of the order dated 18.03.2019 passed in GA/604/2019 in CS/78/2018 is limited to the defendant no. 21 only and shall continue to operate against the other defendants.

The instant application, namely, GA-COM/9/2024 stands disposed of accordingly.

The Report of the Learned Registrar, Original Side dated 27th August, 2024 be kept in record. It is not clear from the Report whether summons were served upon all the defendants. Liberty is given to the Learned Counsel for the plaintiff to take recourse for substituted service of writ of summons. The suit will appear in the list on 5th December, 2024.

Terms of settlement filed in Court today, be kept in record.

(SUGATO MAJUMDAR, J.)