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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 470/2021, I.A. 16225/2021, I.A. 4182/2022 & I.A.
7855/2023

RAMADA INTERNATIONAL,INC Plaintiff
Through: Mr. Ashwani Balayan and Mr.
Yash Raj, Advs.

versus

LA-RAMADA WORLD PRIVATE LIMITED & ANR.
..... Defendants
Through: Mr. Dharmendra Sharma, D-2
in person

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT(ORAL)

23.08.2023

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I.A. 16225/2021, I.A. 4182/2022 (under Order XXXIX Rule 2A of the CPC)

1. This is a gross case, in which the order of injunction, passed by this Court on 23 September 2021 was repeatedly breached by the defendants (Defendant 2 being the sole director of Defendant 1) with absolute impunity.

2. CS (COMM) 470/2021, the suit in which all these IAs have been filed and which is presently under consideration before this Court, was instituted by the plaintiff Ramada International, Inc. against Defendant 1, La-Ramada World Pvt. Ltd. and Defendant 2, a director and majority shareholder in Defendant 1, alleging



infringement, by the defendants, of the trademark RAMADA, registered in favour of the plaintiff, the earliest registration of the said mark in favour of the plaintiff being of 8 October 1991. Additionally, the plaintiff also objected to the domain names <laramadaworld.com>, <laramadaworld.net.in> and <laramadaworld.online> whereunder the defendants were operating the websites <https://laramadaworld.com/>, <http://laramadaworld.net.in> and <https://laramadaworld.online>. The plaintiff also alleged that the name of the hotel operated by Defendant 1, “La Ramada World Resort and Spa” infringed the plaintiff’s registered RAMADA trademark.

3. Finding *prima facie* merit in the plaintiff’s grievance, this Court, while issuing summons in the suit on 23 September 2021, also issued notice in I.A. 12451/2021, filed by the plaintiff under Order XXXIX Rules 1 and 2 of the CPC, and restrained the defendants, their partners, proprietors, etc. “*from using in any manner the plaintiff’s trade mark RAMADA or any other mark which is deceptively or confusingly similar to the said mark including but not limited to the impugned marks LA RAMADA, LA RAMADA WORLD, LA RAMADA*



WORLD RESORT & SPA, LA-RAMADA WORLD, etc.” Defendant 1 was also directed “*to take steps to change the company’s name ‘La-Ramada World Pvt. Ltd.’ forthwith.*” Steps for changing or suspending of the infringing domain names <laramadaworld.com>, <laramadaworld.net.in> and <laramadaworld.online> were also directed to be taken within two weeks.



4. Despite the defendant having been put on notice regarding the passing of the aforesaid order in accordance with the procedure envisaged by Order XXXIX Rule 3 of the CPC, no steps were taken by the defendant to comply with the directions issued by this Court on 23 September 2021, even in respect of suspension of the impugned domain names. The domain names were suspended by the concerned domain name Registrars only on steps in that regard being taken by the plaintiff. The domain name <laramadaworld.net.in> was suspended on 12 October 2021 while the domain names <laramadaworld.com> and <laramadaworld.online> were suspended on 23 November 2021.

5. *On 22 November 2021, i.e. a day prior to the suspension of the domain names <laramadaworld.com> and <laramadaworld.online>, Defendant 2 got a new domain name <lrwworld.com> registered and started a new website www.lrwworld.com, which was identical to the injuncted website laramadaworld.com. it is pointed out by Mr. Balayan, the caption “La Ramada World Private Limited” prominently figured. Additionally, the website made several references to the plaintiff’s registered trademarks as well as to the other marks, the use of which was specifically injuncted by this Court vide order dated 23 September 2021.*

6. The plaintiff, in the circumstances, moved I.A. 16225/2021 for suspending the website www.lrwworld.com.

7. Vide order dated 14 December 2021, this Court extended the



operation of the injunction order dated 23 September 2021 to the new website www.lrwworld.com and issued notice in I.A. 16225/2021.

8. Consequent thereto, the website www.lrwworld.com was suspended on 9 February, 2022 by the domain name registrar. *Within two days, Defendant 2 proceeded to launch yet another website 'lrw.co.in',* in the name of Mr. Kumar Sambhav, a director of Defendant 1. On the last date of hearing, Mr. Balayan had taken this Court through the relevant pages of the said website to indicate that it was identical to the website www.laramadaworld.net.in and again figured, at the head of every page, the caption “La Ramada World Private Limited” and referred, at various places, to the plaintiff’s registered trademarks, the usage of which stood enjoined by this Court on 23 September 2021.

9. Predictably, two days thereafter, on 11 February 2022, *Defendant 2 proceeded to open yet another website www.lrw.co.in, identical to www.lrwworld.com,* once again carrying the caption “LA Ramada World Private Limited” at the head of every page and using, at various places, the enjoined registered trademarks of the plaintiff.

10. By order dated 15 March 2022, this Court directed suspension of the websites lrworld.co.in (opened on 23 October 2021) and lrw.co.in (opened on 11 February 2022).

11. On 8 June 2022, the order was carried into effect and the website www.lrworld.co.in and www.lrw.co.in were suspended.



12. *Once again, on the very next day i.e. 9 June 2022, Defendant 2 opened a new website www.lrwworld.co which was identical to injuncted website www.lrwworld.com and again infringed the plaintiff's registered trademarks. By order dated 11 July 2022, this Court directed suspension of this new website www.lrwworld.co which was suspended at a later point of time.*

13. In the meanwhile, vide order dated 15 March 2022, given the aforesaid circumstances, this Court directed personal presence of Defendant 2. As Defendant 2 did not appear,ailable warrants were directed to be issued on 30 May 2022. Defendant 2 remained absent despite issuance ofailable warrants, whereupon, on 11 July 2022, non-ailable warrants were directed to be issued.

14. Consequent thereto, Defendant 2 appeared before this Court for the first time on 26 July 2022 and prayed that the direction for issuance of non-ailable warrants be suspended. This Court suspended the operation of the order issuing non-ailable warrants against Defendant 2 subject to deposit, by Defendant 2, of ₹ 10 lakhs with the learned Registrar General of this Court within two months.

15. Defendant 2 did not comply with the said direction. Instead, Defendant 2 moved I.A. 14206/2022 before this Court, for stay of the direction for deposit.

16. *Vide* order dated 5 September 2022, I.A. 14206/2022 was



dismissed by this Court, keeping in mind, *inter alia*, the turnover of Defendant 1. The Court directed that the consequence of non-compliance with the direction for deposit of ₹ 10 lakhs would be deliberated upon by the Court when finally hearing the present applications under Order XXXIX Rules 2A of the CPC.

17. Mr. Balayan has also referred to various other incidents of disobedience, by the defendants of the injunctive orders passed by this Court, including various postings on the defendants' Instagram and Facebook social media handles, in which the impugned marks were reflected.

18. On 10 February 2023, Mr. Yashwi Chocksey, learned Counsel appearing for the defendants sought to attribute the aforesaid acts of his client to erroneous advice provided by Counsel. In paras 23 to 27 of the order passed on the said date, this submission was categorically rejected and Defendant 2 was found guilty of contumacious and wilful disobedience of the injunction orders passed by this Court. The matter was, therefore, directed to be listed for hearing on the aspect of sentence on 15 February 2023.

19. Learned Counsel for the defendants then sought time to file an affidavit on the aspect of sentence. The affidavit, however, merely sought to tender an apology and provided no explanation whatsoever for Defendant 2 having acted as he did.

20. It was also noted, on the said date, that Defendant 1 had, as far



back as on 11 July 2022, been directed to place on record the details of its bank statement and the amounts contained therein, which direction had yet to be complied with. A week's time was, therefore, granted to the defendants to comply with the said direction. Till date, the said affidavit is not on record.

21. Mr. Balayan, learned Counsel for the plaintiff submits, however, that the plaintiff has placed, on record, the balance sheets of the defendant which indicates that, in the year ending 31 March 2021, the defendant had earned, from their operations, revenue of ₹ 99,93,966/- and, in the year ending 31 March 2022, these earnings had increased to ₹ 1,55,61,574/-.

22. Injunction orders passed by Courts cannot be treated as waste paper. The defendants were, apparently, cocking a snook at the Court, by following up the compliance of each injunction, granted by this Court, with a further act of disobedience the very next day or the day after. The plaintiff was, thus, driven to file application after application before this Court, and the Court had to injunct again and again, as though its orders were worth tinsel.

23. Incarceration, or attachment of the properties of the delinquent who has breached the injunction order are the two corrective actions which Order XXXIX Rule 2A of the CPC envisages, once a finding of contumacious and wilful disobedience is returned. At the same time, incarceration, which compromises the life and liberty of the person concerned, is to be resorted to as a last resort and, in appropriate cases,



can be substituted with directions for monetary deposit.¹

24. Following the aforesaid decision, the Court directs the defendant, by way of sentence for having committed wilful and contumacious disobedience of the order passed by this Court, to deposit with the Registry of this Court, a sum of ₹ 5 lakhs within a period of four weeks from today. In the event of failure to deposit the said amount, Defendant 2 would be taken into custody to suffer incarceration in civil prison for a period of one week.

25. Both these applications stand disposed of in the aforesaid terms.

I.A. 7855/2023 (under Order XIII-A Rule 3 of the CPC)

26. Despite the time envisaged in Order XIII-A Rule 4(2) and (3) of the CPC as amended by the Commercial Courts Act having long elapsed, Mr. Dharmendra Sharma, Defendant 2 who appears in person seeks and is granted a final opportunity of 2 weeks to file reply to this application.

27. List this application for hearing and disposal on 18 September 2023.

C.HARI SHANKAR, J

AUGUST 23, 2023/ar

¹ Refer the judgment of the Division Bench of this Court in **Arjun Chowdhury v. Ankur Sachdeva, 2009 SCC OnLine Del 3547**