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

+ CS(COMM) 766/2022

SPORTA TECHNOLOGIES PVT LTD & ANR. Plaintiffs

Through: Ms.Shwetasree Majumdar, Mr.Prithvi
Singh, Mr.Rohan Krishna Seth, Advs.
(M-8860680136).

versus

KUNDAN ROY

..... Defendant

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **09.11.2022**

I.A. 18060/2022 (Exemption)

1. Allowed, subject to all just exceptions.

I.A. 18059/2022

2. This is an application filed on behalf of the plaintiffs seeking leave to file additional documents, which are not in the power, possession, control or custody of the plaintiffs at the moment.

3. The plaintiffs may file the additional documents strictly in accordance with the provisions of the law.

4. The application stands disposed of.

I.A. 18058/2022

5. This application has been filed by the plaintiffs seeking exemption from instituting pre-litigation mediation under Section 12A of the Commercial Courts Act, 2015.

6. Having perused the contents of the application, the same is allowed.

CS(COMM) 766/2022

7. Let the plaint be registered as a suit.
8. Issue summons to the defendant, to be served through all permitted modes, including electronically, returnable on 2nd February, 2023 before the learned Joint Registrar (Judicial).
9. The summons to the defendant shall indicate that the written statement to the plaint shall be positively filed within a period of 30 days from the date of receipt of summons. Along with the written statement, the defendant shall also file the affidavit of admission/denial of the documents of the plaintiffs, without which the written statement shall not be taken on record.
10. Liberty is given to the plaintiffs to file the replication within a period of 15 days of the receipt of the written statement. Along with the replication, if any, filed by the plaintiffs, the affidavit of admission/denial of documents of the defendant be filed by the plaintiffs, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

I.A. 18057/2022

11. Issue notice.
12. On the plaintiffs taking steps, let notice be served on the defendant through all permissible modes, including electronically, returnable on 2nd February, 2023 before the learned Joint Registrar (Judicial).
13. Let reply to the application be filed by the defendant within a period of four weeks of receipt of the notice. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

14. It is the case of the plaintiffs that the plaintiffs adopted the trade mark '**Dream-11**' in the year 2012 for its fantasy sports platform and have been the official fantasy sports partner of the *International Council of Cricket* (ICC), *the Campeonato Nacional de Liga de Primera Division* (La Liga), *Vivo Indian Premier League* (IPL), *KFC Big Bash League* (BBL), *Hero Caribbean Premier League* (CPL) T20, *National Basketball Association* (NBA), *Vivo Pro Kabaddi League* (PKL), *International Hockey Federation* (FIH), *Hero Indian Super League* (ISL) and *T20 Mumbai* amongst several others.

15. The plaintiffs are also the registered proprietor of various marks, of which '**Dream-11**' forms a prominent part, the details whereof are given in paragraphs 7 and 8 of the plaint.

16. The plaintiff no.1 also adopted the mark '**FanCode**' for its multi-sport aggregator platform, which offers content, merchandise and community engagement, and more specifically streaming of matches, sports content, live match scores, research-based insights, fantasy sports statistics, expert tips etc. It is contended that the plaintiffs' '**FanCode**' mobile application has over 2.5 Crore collective mobile-app installations and the plaintiffs have partnered several associations, including the *Caribbean Premier League*, *Bangladesh Premier League*, *Major League Baseball* (MLB), *National Football League* (NFL), *Bundesliga* etc. These matches are livestreamed of the plaintiffs' website www.fancode.com, of which the plaintiff no.2 is the registrant, and the said domain name was registered on 22.12.2012.

17. In connection with the aforesaid services, there exist a number of trade marks registered in favour of the plaintiff no.2, the details whereof are given in paragraph 26 of the plaint.

18. The plaintiffs alleged that in September, 2022, they came across the impugned website www.fancode11.com and the mobile application 'Fancode11' and the use of the marks **FANCODE11** / **FC** by the defendants.

19. It is alleged that the adoption of the mark 'Fancode11' and other impugned marks by the defendant is dishonest inasmuch as he has intentionally mixed the two marks of the plaintiffs, including their colour scheme. The plaintiffs further alleged that even the look-and-feel of the mobile application of the defendant is similar to that of the plaintiffs, thereby leading to a possibility of deception.

20. The learned counsel for the plaintiffs further submits that as far as the You-tube channel is concerned, the defendant uses the mark 'FANKODE-11'. She submits that the mere replacement of the alphabet 'C' by 'K' in 'FanCode' would not be sufficient to distinguish the two marks.

21. Having considered the contents of the plaint, the documents filed therewith, and also having heard the learned counsel for the plaintiffs, I am of the opinion that the plaintiffs have been able to make out a good *prima facie* case in their favour. The balance of convenience is also in favour of the plaintiffs and against the defendant. The plaintiffs as well as the general public is likely to suffer grave irreparable injury in case an *ad-interim* injunction is not granted in their favour.

22. In view of the above, there shall be an *ad-interim ex-parte* order of injunction in favour of the plaintiffs and against the defendant in terms of the prayers made in paragraphs 32 (a) to (c) of the present application till further orders.

23. Compliance with Order XXXIX Rule 3 of the Code of Civil Procedure, 1908, be made within a period of two days from today.

24. *Dasti.*

NAVIN CHAWLA, J

NOVEMBER 9, 2022

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