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

+ **CS(COMM) 71/2024**

PEAK XV PARTNERS ADVISORS INDIA LLP & ANR.

..... Plaintiffs

Through: Ms. Sneha Jain, Mr. Yatinder Garg,
Mr. Akshay Maloo and Mr. Rajit
Ghosh, Advocates.

versus

JOHN DOE & ORS.

..... Defendants

Through: Mr. Piyush Beriwal, Mr. Vedansh
Anand and Mr. Nikhil Kumar
Chaubey, Advocates for D-5 & 6/
UOI.

Mr. Neel Mason, Mr. Vihan Dang,
Mr. Ujjawal Bhargava and Mr. Aditya
Mathur, Advocates for D-8/ Google
LLC.

Mr. Tejas Karia, Ms. Swati Agarwal,
Mr. Shashank Mishra, Mr. Mohit
Singh, Ms. Akshi Rastogi, Ms.
Vedika Rathore and Ms. Ritika
Bansal, Advocates for WhatsApp
LLC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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12.03.2024

**I.A. 5085/2024(w/O I Rule 10 and Order VI Rule 17 r/w Section 151 of CPC
on behalf of Plaintiff)**

1. Through the present application, the Plaintiffs have invoked the



provisions of the Code of Civil Procedure, 1908 [“CPC”] to implead WhatsApp LLC as Defendant No. 10 and to extend the directions contained in paragraph No. 26.3 of the injunction order dated 24th January, 2024 with suitable modifications, to WhatsApp LLC.

2. As noted previously, Mr. Tejas Karia, counsel representing WhatsApp LLC, does not dispute that WhatsApp LLC would be a proper party for the purpose of effective implementation of this Court’s direction. In view thereof, the request for impleadment is allowed and WhatsApp LLC is arrayed as Defendant No. 10 to the present suit. The amended plaint along with the amended memo of parties, annexed with the application, are taken on record.

3. This brings us to the bone of contention between the parties: how the following direction passed on 24th January, 2024, has to be extended to WhatsApp LLC, and if any modifications are required for its implementation:

“26.3. Defendant No. 3, Meta Platforms Inc., is directed to delete the WhatsApp groups and remove/ block access to the WhatsApp accounts of the mobile numbers, as mentioned in Document-A annexed to the plaint. They shall, within four weeks from today, file in a sealed cover, the IP addresses from which the WhatsApp accounts of the mobile numbers mentioned in Document-A to the plaint, are operated.”

4. Mr. Karia opposes the Plaintiffs’ request, arguing that of the phone numbers enlisted in Document-A to the plaint, no evidence depicting violation of Plaintiffs’ rights in the mark “PEAK XV” by the phone numbers +44 7518475031 and +44 7518475239, has been supplied by the Plaintiffs. He states that there is no material to show that the aforesaid WhatsApp accounts have posted messages resembling the impugned content in the WhatsApp group titled “Peak XV 🌐 1026” within the Indian



jurisdiction. Mr. Karia further submits that the Plaintiffs have not provided sufficient identifiers for WhatsApp LLC to locate the aforesaid group for necessary action. In the event the Court were to direct WhatsApp LLC to suspend/ block the group's operations, he insists that Plaintiffs must provide further information, such as the name of the group administrators or the group/ community invite link to the "Peak XV 🎱 1026" WhatsApp group.

5. On the other hand, Ms. Sneha Jain, counsel for Plaintiffs, urges that given the nature of activities carried out by Defendant No. 1 [John Doe] using the group in question, the accounts of its administrators, including +44 7518475031 and +44 7518475239, must be taken down. She further emphasizes that the group name itself – "Peak XV 🎱 1026" – entails the Plaintiff's trademark "PEAK XV", and requests for removing access to all phone numbers mentioned in Document-A to the plaint.

6. The Court has considered the afore-noted contentions, but does not find merit in the objection raised by Mr. Karia. The present suit is directed against a fraudulent online investment and trading scheme orchestrated by Defendant No. 1, whereunder unwary consumers are directed to the website and mobile application "https://pakxv.joyppp.com/" and "PAK XV", respectively, that offer multiple investment options, returns whereof are not received by the investor. According to the Plaintiffs, Defendant No. 1 is using the name "PAK XV", which is deceptively similar to their "PEAK XV" trademark, to lure consumers. The impugned website offers an option for customer service *inter alia* through the WhatsApp group titled "Peak XV 🎱 1026". Plaintiffs have annexed the following details of this WhatsApp group with the plaint:



7. The above-noted WhatsApp group has been created under the Plaintiffs’ trademark “PEAK XV” and the profile pictures of all the group administrators, which includes the phone numbers +44 7518475031 and +44 7518475239, are in fact images of Plaintiff No. 1’s Managing Directors. The profile picture against the number +44 7518475031 is of Mr. Rajan Anandan, while the display picture against phone number +44 7518475239



is of Mr. Shailendra Singh. The use of images of Plaintiff No. 1's Managing Directors as display pictures, indicates the intent of owners of the phone numbers +44 7518475031 and +44 7518475239 to create an impression of authenticity that the group originates from Plaintiff No. 1-company itself. Thus, the Court is of the *prima facie* opinion that the owners of all the phone numbers enlisted in Document-A to the plaint (who are the group administrators of "Peak XV 🏠 1026") are working in collusion with one another. Notably, after the issuance of *ex-parte* ad-interim injunction order on 24th January, 2024, compliance of Order XXXIX Rule 3 of CPC was also effected on these mobile numbers, yet none has come forward on their behalf to contest the present proceedings.

8. In view of the above, the application is allowed with the following directions:

8.1. The newly impleaded Defendant No. 10 – WhatsApp LLC, is directed to remove/ block access to the WhatsApp accounts of all the mobile numbers mentioned in Document-A to the plaint.

8.2. Insofar as the suspension/ deletion of the WhatsApp group "Peak XV 🏠 1026" is concerned, WhatsApp LLC is directed to file an affidavit explaining the mechanism followed by them to identify a group by its name and the technical difficulties that they would face for implementing such a direction. Plaintiffs, in the meantime, are permitted to undertake attempts to ascertain another identifier that can be provided to WhatsApp LLC for implementing directions to remove/ block the group "Peak XV 🏠 1026".

8.3. WhatsApp LLC shall, within four weeks from today, file in a sealed cover, the Basic Subscriber Information relating to the WhatsApp accounts of the mobile numbers mentioned in Document-A to the plaint, as is



available with them. A copy thereof shall also be supplied to the counsel for Plaintiffs, which shall be strictly used by them for the purpose of investigation and identification of the perpetrators.

9. With the above directions, the application is disposed of.

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10. Registry is directed to take on record the documents furnished by Defendant No. 8 – Google LLC in a sealed cover. A copy of the said documents shall also be provided to counsel for Plaintiffs, which shall be strictly used by them for the purpose of investigation and identification of the perpetrators.

11. List before the Joint Registrar on the date already fixed *i.e.*, 22nd March, 2024.

SANJEEV NARULA, J

MARCH 12, 2024

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