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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO(OS) 50-51/2011

BLING TELECOM PVT LTD Appellant
Through : Mr.Dhruva Bhagat, Advocate.

versus

MICROMAX INFORMATICS PVT LTD Respondent
Through : Mr.Sanjeev Narula, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE S.P.GARG

ORDER
15.11.2011

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1. On 05.07.2011 Mr.Dhruva Bhagat, counsel for the appellant had sought an adjournment to enable him to withdraw the vakalatnama filed by him.
2. Learned counsel appears today and prays for matter to be adjourned. He states that he wants to withdraw the vakalatnama filed by him. We decline the request. At this stage another lawyer appears and states that only yesterday a representative of the appellant contacted him and he prays for matter to be adjourned to enable him to file a vakalatnama in his name and prepare the arguments. He refuses to disclose his name but prays that the matter be adjourned, repeating that only last evening the representative of the appellant engaged him to appear.
3. We have declined to adjourn the matter, noting that since 31.01.2011, learned counsel for the appellant has been simply seeking adjournment. On the last date, learned counsel sought time to withdraw his vakalatnama but till today has done nothing and a
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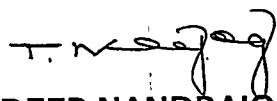
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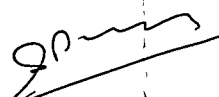
second counsel steps in to seek an adjournment but has left the court without even informing his name. It is apparent that the appellant is playing ducks and drakes with the Court.

4. Since counsel on record Mr.Dhruva Bhagat says that he has no instructions to argue the matter and the second counsel who stood up for the appellant has left the Court without even giving his name, we dismiss the appeal for want of prosecution, but note the fact that the appellant and the respondent lay stake to the word mark '*Bling*' without the same being their registered proprietary trade mark. The two are simply using the said word. The learned Single Judge, in para 24 of the impugned order, has held that the word '*Bling*', though not conventionally a word of English language has found its creation in the modern world and was added in the shorter Oxford English Dictionary in the year 2002, and in that sense would now be a common word. Learned Single Judge has noted that an Internet (Google) search for the word '*Bling*' yielded as many as 68,60,000 results i.e. the word '*Bling*' was used for as many times, in different texts. The learned Single Judge has further noted that both warring groups had started using the said word only recently i.e. in the year 2009 and that the suit was filed in the year 2010.

5. The appeal is dismissed for non prosecution.

6. No costs.


PRADEEP NANDRAJOG, J.


S.P. GARG, J.

NOVEMBER 15, 2011

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