

O.A.Nos.653 to 655 of 2014

in

C.S.No.540 of 2014

R.SUBBIAH, J

When the matter came up before this Court on 19.1.2015, by recording the affidavit of the second respondent dated 17.12.2014, this Court had passed the following order:-

"1. As and when the infringement of the MRF products is brought to the notice of the applicant, the respondent shall remove all the infringement articles from their website www.ebay.in, subject to the applicant furnishing indemnity bond.

2. If there is any such alleged infringing listing is noticed by the applicant, the applicant shall bring it to the notice of the Grievance Officer of the second respondent in writing and the second respondent shall have to disable access to such listing within 48 hours of receipt of an email from the applicant.

3. The second respondent is directed to furnish the name and address to the grievance officer to the applicant within a period of one week from the date of receipt of a copy of this order".

2. Now, at the instance of the learned counsel appearing for the applicant / plaintiff, the matter has been listed today for modification. But, the learned counsel appearing for the respondents/ defendants by filing reply, has opposed for modification of the order dated 19.1.2015.

3. After hearing both sides, this Court is of the opinion that the order dated 19.1.2015 made in O.A.Nos.653 to 655 of 2014 in C.S.No.540 of 2014 could be modified.

4. Accordingly, clause No.2 of para 12 of the order dated 19.1.2015 made in O.A.Nos.653 to 655 of 2014 in C.S.No.540 of 2014 is deleted and clause No.3 is made as clause No.2 and further, the following clauses are hereby added:-

" 3. The interim injunction application to be allowed as prayed for in O.A.Nos.653 to 655 of 2014 against the first defendant / first respondent.

4. eBay shall furnish the details of the vendor and the transactions relating to the infringing listing in this suit i.e.,

a. The full name and address of the vendor who has listed the infringing product;

b. The email id and/or mobile/telephone numbers of such vendor as is available with them;

c. The details of transactions relating to the infringing product viz., the complete list of sales effected, the details of purchasers of such products, the proceeds received for such sales, the amounts paid by eBay to such vendor and any credit the vendor has at present with eBay. All these information as are available with them on date.

5. Insofar as future listings are concerned, as and when any infringing products listed on eBay website comes

to the attention of the plaintiff, the plaintiff shall intimate the same to the grievance officer of eBay, whose details are as follows:-

Name : Mr.Saurabh Dhankar

Designation: Manager - Marketplace Health

Address : eBay India Private Limited,
14th Floor, North Block,
R-Tech Park, W E Highway,
Goregaon (East), Mumbai-400 063,
India.

Email id : DL-EBAY-IN-GRIEVANCE-
OFFICER@ebay.com

Telephone : (Board) + 91 022 6669 0000
(Direct) + 91 022 6669 0149
(10.00 am to 6.30 p.m. from
Monday to Friday
except public holidays)

6. Within 48 hours of receipt of such information from the plaintiff, eBay shall disable access of such listing / remove such listing from its website.

7. In addition thereto, within 48 hours of the receipt of the above notice, eBay shall furnish --

a. The full name and address of the vendor who has listed the infringing product.

b. The email id and mobile/telephone numbers of such vendor as are available with them.

c. The details of transactions relating to the infringing product viz., the complete list of sales effected, the details of purchasers of such products, the proceeds received for such sale, the amount paid by eBay to such vendor and any credit amount that such vendor has at that time with eBay.

8. eBay shall also forthwith freeze the account of the vendor for a period of 60 days within which time, the plaintiff shall take necessary and suitable action before the competent court in respect of the infringing listing and the amounts lying with eBay.

9. The plaintiff shall indemnify eBay in respect of any damages payable by eBay to the vendor due to the delisting of the infringing product and freezing of such vendor's account, if it is held by a court of law that the sale by the vendor through the eBay website, of the products objected to by the plaintiff, did not amount to infringement

or Passing off. eBay shall forthwith upon gaining knowledge of any damage claim intimate the plaintiff about any proceedings initiated in respect thereof.

10. All other aspects of the earlier order stands. "

Registry is directed to issue corrected order copy to the parties concerned.

12.03.2015

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DATED: 12.03.2015