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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 523 OF 2016
WITH
NOTICE OF MOTION NO. 900 OF 2016**

Maximus Mice & Media Solutions Pvt. Ltd. & ...Plaintiffs
Anr.

Versus

IDL Foundation & Another ...Defendants

Mr. Ankit Lohia, *with Mr. Asif Navodia, i/b Khimani & Associates,*
for the Plaintiffs.

Ms. Shikha Bhura, *with Mr. Rajdeep Lahiri, i/b Singhania Legal*
Services, for Defendant No. 2.

CORAM: G.S. PATEL, J

DATED: 4th July 2016

PC:-

1. On 11th April 2016, notice under the Contempt of Court (Bombay High Court) Rules, 1995 was issued to the 2nd Defendant, Dr. P.K. Paul. It was returnable on 20th June 2016. The matter was then listed on 29th June 2016. Since the 2nd Defendant was not present, it was stood over to today. Dr. Paul is present in Court today. He is represented by different Advocates, having discharged his earlier legal team.

2. Dr. Paul tenders an Affidavit dated 4th July 2016. I have seen that Affidavit. In this, he has tendered an unconditional and unqualified apology. He has, in addition, stated that he is not using the mark in question **PINKATHON** in any manner. In paragraph 7, he confirms specifically that he has abandoned the usage of this mark and has also applied for withdrawal of his application for registration of the mark “**IBL-BLIND PINKATHON**”. A copy of his application for withdrawal is annexed to this Affidavit.

3. There was earlier a complaint that there were several photographs that continued on social media after previous orders of restraint. In paragraph 8 of the present Affidavit, Dr. Paul has set out a list of nine such social media photographs that he says he will ensure are removed.

4. Mr. Lohia for the Plaintiffs attempts a submission that there may be other photographs of the same kind, and that the 2nd Defendant must remove those as well. While that may be necessary, strictly speaking, it is probably also impractical since Mr. Lohia does not have today any examples or instances of such use. It is sufficient to note that following this Affidavit, Dr. Paul who is present in Court personally gives an undertaking that should the Plaintiffs point out any existing photograph, Dr. Paul will take necessary steps to remove it. This is accepted as an undertaking to this Court. This, of course, subject to Dr. Paul being in a position to remove such a photograph, i.e., if that photograph is within his control. I say this for I visualize a situation where a photograph may have been further circulated by a third party; that removal is not part of Dr. Paul's obligation to remove, nor part of his undertakings to Court.

5. I am inclined to accept the Affidavit. It only needs to be put in a proper form of stitching and docket. Learned Advocate for the Defendant states that this will be done in the course of the day. The Affidavit is then to be given to the Associate of this Court. A copy has been given to the learned Advocate for the Plaintiffs in Court today.

6. The Contempt Notice is discharged in these terms.

7. In these circumstances, the Notice of Motion and the Suit do not survive. They are disposed of in the foregoing terms. The undertakings previously given to this Court by Dr. Paul will continue as undertakings given to the Court.

8. Refund of court fee, if any, in accordance with Rules. Drawn up decree is dispensed with.

9. All concerned to act on an authenticated copy of this order.

10. Needless to say that the Plaintiffs will always be at liberty to make an application for revival of the Suit or to file a fresh Suit should there be any recurrence of the infringing acts by these Defendants.

(G. S. PATEL, J.)