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

+ CS(OS) 223/2015

SIEMENS PRODUCT LIFECYCLE MANAGEMENT
SOFTWARE INC & ANR Plaintiffs
Through: Ms. Safia Said and Ms. Shruti Baid,
Advs.

Versus

A. GHOSH & ANR Defendants
Through: Ms. Anuradha Salhotra and Mr. Sumit
Wadhawa, Advs. with defendants in
person.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **29.07.2016**

IA No.6609/2015 in CCP No.34/2015 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CS(OS) 223/2015 & IA No.1840/2015 (u/O 39 R-1&2 CPC)

3. The two plaintiffs Siemens Product Lifecycle Management Software Inc. and Siemens Industry Software (India) Pvt. Ltd. have instituted this suit to restrain the two defendants namely Mr. A. Ghosh and M/s Synergies Castings Limited from directly or indirectly reproducing, storing, installing and/or using pirated/ unlicensed software of the plaintiffs including NX (Unigraphics), thereby infringing the copyright of the plaintiffs therein and for ancillary reliefs.

4. The suit was entertained and vide *ex-parte* ad-interim injunction dated 28th January, 2015, the defendants were restrained from using the pirated/unlicensed software of the plaintiffs including NX UG (formerly Unigraphics), I-DEAS, Solid Edge, Team Centre, Tecomatrix etc. The said order has continued in force.
5. The pleadings have been complete and the suit is ripe for framing of issues, if any.
6. The counsel for the defendants states that the defendants are not using any software of the plaintiffs; that the defendant No.2 has a contractual relationship with one G4 Solutions and Applications Private Limited and it is the said G4 Solutions and Applications Private Limited which is using the software; the said G4 Solutions and Applications Private Limited, on enquiry, has informed the defendants that it holds a licence from the plaintiffs.
7. In view of the aforesaid stand of the defendants, no issue arises as far as the claim of the plaintiffs for permanent injunction is claimed.
8. It is also the contention of the counsel for the defendants that the defendants had taken the said stand at the very outset.
9. In view thereof, it is not deemed necessary to keep the suit pending for the ancillary reliefs of rendition of accounts and damages.
10. Accordingly, the suit is decreed in favour of the plaintiffs and against the defendants in terms of prayer paragraph 27(A) of the plaint, leaving the parties to bear their own costs.
11. Decree sheet be drawn up.

CCP No.34/2015 & CRL.M.A. No.6423/2016 (of defendants u/S 340 Cr.PC)

12. The plaintiffs aver contempt by the defendant No.1 and Mr. Rahman being the Company Secretary of the defendant No.2 M/s Synergies Castings Limited by obstruction of the commission issued by this Court vide order dated 28th January, 2015.

13. I have perused the report of the Court Commissioner.

14. The counsel for the defendants/alleged contemnors states that the alleged contemnors who are present in Court have already tendered their unconditional apology and today also tender their unconditional apology. It is further fairly stated that whatsoever may be the reasons for the alleged contemnors to obstruct the commission issued by the Court, the obstruction ought not to have been caused.

15. The defendants have filed Crl.M.A. No.6423/2016 contending that the affidavit of the alleged ex-employee of the defendants, on the basis of which the plaintiffs filed this suit, is not of the said person; that the defendants upon learning of the said affidavit lodged a complaint with the Police and upon the Police contacting the said person, he denied of having signed any such affidavit.

16. Having heard the counsels, it is deemed appropriate to dispose of these proceedings by imposing punishment on the alleged contemnors, besides of reimbursing the fee of Rs.1 lakh borne by the plaintiffs of the commission, paying a further sum of Rs.2 lakhs to the plaintiffs i.e. by directing the defendants and the alleged contemnors to pay a sum of Rs.3 lakhs to the plaintiffs on or before 10th August, 2016. The alleged

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contemnors are cautioned that they should in future not obstruct implementation of any order of the Court.

17. No case for proceeding further under Section 340 of Code of Criminal Procedure, 1973 is made out.

18. CCP No.34/2015 & CRL.M.A. No.6423/2016 are accordingly disposed of.

RAJIV SAHAI ENDLAW, J.

JULY 29, 2016

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