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

+ **CS(COMM) 137/2016 & IA No.15441/2015 (u/O 39 R-1&2 CPC)**

TEKLA CORPORATION & ANR Plaintiffs
Through: **Ms. Aarshia Behl, Adv.**

Versus

HARIOM GERA & ORS Defendants
Through: **None.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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03.08.2016

1. The two plaintiffs namely Tekla Corporation and TEKLA India Pvt. Ltd. have sued for permanent injunction to restrain the four defendants namely Mr. Hariom Gera, M/s. Constructure Designs Pvt. Ltd., Mr. Dharamraj Contracts India Pvt. Ltd. and D.R. Infra Con. Pvt. Ltd. from infringing the copyright of the plaintiffs in various versions of "TEKLA STRUCTURE" software of the plaintiff and for ancillary reliefs.
2. The counsel for the plaintiffs on enquiry states that the four defendants work from the same premises and have common interest and service common clients.
3. The suit was entertained and vide *ex-parte* ad-interim order dated 3rd August, 2015, the defendants restrained from using any software of the plaintiffs including TEKLA STRUCTURE without obtaining licenses from the plaintiffs; a Court Commissioner was also appointed to visit the premises

of the defendants and to seize the infringing software. The said order continues to be in force till now.

4. The Court Commissioner has reported having found five of the computers in the premises of the defendants to be having unlicensed software of the plaintiffs.

5. The defendants though earlier appeared but neither filed the written statement nor appeared thereafter and vide order dated 18th February, 2016, the right of the defendants to file written statement was closed and the defendants proceeded *ex-parte*.

6. Though the plaintiffs have till date not led *ex-parte* evidence of which opportunity was given but following the reasoning given in ***Indian Performing Rights Society Vs. Gauhati Town Club*** (2013) 134 DRJ 732 (Del) and on the basis of the pleadings, the documents and the Court Commissioner's report being satisfied that the plaintiffs have made out a case for grant of permanent injunction as sought and for destruction of the infringing material, need to keep the suit pending is not felt.

7. The suit is accordingly decreed in favour of the plaintiffs and against the defendants jointly and severally (i) for permanent injunction in terms of prayer paragraph 29(I) of the plaint; (ii) for destruction of the infringing / pirated software of the plaintiffs seized by the Court Commissioner and given on *superdari* to the representative of the defendant No.2 by directing the defendants to, within ten days of the plaintiffs' communicating this order to the defendants, destroy the said pirated / infringing software in the presence of the representative of the plaintiffs; (iii) for costs of *CS(COMM) 137/2016*

this suit of Rs.5 lakhs; the said costs has been computed in the light of the expenses including legal fee in the suit and in executing the commission and the use by the defendants of the pirated / infringing software as reported by the Court Commissioner.

8. Decree sheet be drawn up.
9. The date of 3rd October, 2016 before the Joint Registrar is cancelled.

RAJIV SAHAI ENDLAW, J.

AUGUST 03, 2016

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