

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 3RD DAY OF SEPTEMBER 2018

THE HON'BLE MR.JUSTICE M.SUNDAR

O.A.Nos.689 & 691 of 2018

in

C.S.No.493 of 2018

1. Aqua Pump Industries
rep by its Managing Partner
Mr.Ramaswamy Kumaravelu
Thudiyalur Post
Coimbatore 641 034
Having their branch office at
New No.10, Old no.26
Errabalu Chetty Street, Parrys Corner
Chennai 600 001.

2. Aqua Sub Engineering
rep by its Managing Partner
Mr.Ramaswamy Kumaravelu
Thudiyalur Post
Coimbatore 641 034
Having their branch office at
New No.10, Old no.26
Errabalu Chetty Street, Parrys Corner
Chennai 600 001

...Applicants/Plaintiffs
(in both applications)

-Versus-

1.Amazon Technologies INC,
410, Terry Avenue North, Seattle,
Washington 98109,
USA

2. Amazon Seller Services (P) Limited
Ground Floor, Eros Plaza,
Eros Corporate Tower,
Nehru Place
New Delhi 110019
And Also at
No.26/1, 8th Floor,
Brigade Gateway,
Dr.Raj Kumar Road, Malleshwaram(W)
Bangalore 560055.

O.A.No.689 of 2018

Original Application praying that this Hon'ble Court be pleased to grant an interim injunction, restraining the 1st and 2nd Respondents, by itself, their servants, agents, distributors, or anyone claiming through them from listing

1. Deluxe Engineers
2. Mahavir Enterprises
3. Raman Machinery Stores
4. Akash Traders Stores
5. Ronak Enterprises
6. Sri R Enterprises
7. Brothers Technical Group
8. Sri Lakshmi Agencies
9. Sree Sadguru Sai Enterprises
10. Sharp House
11. Samson Aqua Solutions

Or any other unknown sellers who are selling, advertising and offering for sale the counterfeit products using the Applicants' registered Trade Mark TEXMO in the 1st and 2nd Respondents' website www.amazon.in or in any manner infringing the Applicants Registered Trade Mark Nos.315049 (SP-I), (SP-II) & 315050 (SP-I), (SP-II) renumbered as 2702778, 270279, 2702780 & 2702781 respectively pending disposal of the above suit.

O.A.No.691 of 2018

Original Application praying that this Hon'ble Court be pleased to grant an interim injunction, restraining the 1st and 2nd Respondents, by itself, their servants, agents, distributors, or anyone claiming through them

from listing

1. Deluxe Engineers
2. Mahavir Enterprises
3. Raman Machinery Stores
4. Akash Traders Stores
5. Ronak Enterprises
6. Sri R Enterprises
7. Brothers Technical Group
8. Sri Lakshmi Agencies
9. Sree Sadguru Sai Enterprises
10. Sharp House
11. Samson Aqua Solutions

Or any other unknown sellers who are selling, advertising and offering for sale the counterfeit products using the Applicants' registered Trade Mark TEXMO in the Respondents' website www.amazon.in or in any manner passing off the Applicants Trade Mark TEXMO pending disposal of the above suit.

These Original Applications coming on this day before this court for hearing the court made the following order:

सत्यमेव जयते

There are two plaintiffs and two defendants in the main suit. Plaintiff 1 and 2 in the main suit are Applicants 1 and 2 respectively in the instant application. Defendants 1 and 2 in the main suit are respondents 1 and 2 respectively in the instant application. Parties in this application are referred to by the respective ranks in the main suit for the sake of convenience and clarity.

2. Today (03.09.2018), vide separate orders

<https://hcservices.ecourts.gov.in/hcservices/>

A.No.5655 of 2018 and A.No.5656 of 2018 have been disposed off.

3. In the light of the disposal of the aforesaid two applications, both the learned counsel submit that these two applications can be closed recording the common order passed in the aforesaid two applications, which reads as follows:

"There are two plaintiffs and two defendants in the main suit. Plaintiffs 1 and 2 in the main suit are Applicants 1 and 2 respectively in the instant applications. Defendants 1 and 2 in the main suit are Respondent 1 and 2 respectively in the instant applications. Parties in this application are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

2. Ms.Gladys Daniel, learned counsel for plaintiffs and Mr.M.S.Bharath, learned counsel for defendants, are before this Commercial Division.

3. Both learned counsel pointed out that instant application pertains to take down mechanism qua the second defendant's site and injunctive relief qua listing some sellers.

4. Both learned counsel draw my attention to an order dated 17.05.2017, made by a learned single Judge of the Delhi High Court in I.A.No. 15702 of 2016 and 4418 of 2017 in C.S (Comm) 1462 of 2016.

5.The Order reads as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

I.A.Nos.15702/2016 & 4418/2017

Learned counsel for defendant no.8

reiterates and reaffirms the undertaking given to this court on 30th January, 2017. She states that in the event the plaintiff informs the defendants of any alleged illegal listing on the following e-mail IDs, requisite legal action shall be taken within 48 working hours:-

(i) sunrahul@amazon.com

(ii) prithwis@amazon.com

She further states that the defendant no.8 shall disclose the details of the sellers of the infringing products in response to the plaintiff's request within 48 working hours.

Learned counsel for the plaintiff prays for some time to obtain instructions.

List on 06th July, 2017.'

6. Learned counsel for defendants submits that the aforesaid two e-mails Ids referred to in the aforesaid order continue to operate and they will function as take-down mechanism qua the site, which is subject matter of the suit i.e., site of the second defendant.

7. There is no dispute or disagreement between the parties that complaints, if any, will not be restricted to the plaint averments and if any future complaints regarding some other sellers are brought to the notice of the mail Ids, the same will also be taken out and attended to as per standard operating procedures and this aspect has also been articulated in the aforesaid order.

8. Learned counsel for plaintiffs submits

that the aforesaid stand of the defendants douses the anxiety of the plaintiffs and therefore the same shall be treated as prayer in the instant application being answered in the affirmative for the present."

4. In the light of the narrative supra, both these applications are disposed of as closed.

List the main suit on 20.09.2018.

Sd/-M.S.J
03.09.2018

//Certified to be a true copy//
Dated this the day of 2018.

KY/05.09.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

सत्यमेव जयते

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