

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

A.Nos.5656 & 5657 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.

A.No.5656 of 2018

Application praying that this Hon'ble Court be pleased to grant directing the 1st and 2nd Respondents to take down or block or remove or delist all the products of the

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

A.No.5657 of 2018

Application praying that this Hon'ble Court be pleased to grant directing the 1st and 2nd Respondents to furnish the details including the name and address of

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

the other sellers who are infringing the Applicants 'registered Trade Mark TEXMO pending disposal of the above suit.

This Application coming on this day before this court for hearing the court made the following order:

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:

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

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 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.

Recording the aforesaid submission, both this application are disposed of as closed.

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.



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