

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 08TH DAY OF APRIL, 2019

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

A. No.2713 of 2019
in
C.S.(COM)No.11507 of 2019

Mi Lifestyle Marketing Global Pvt Ltd
Rep.by its Managing Director
Office At 25, 2nd Floor, Lanco House,
G.N.Chetty Road,
T.Nagar, Chennai 600 017. ..Applicant/Plaintiff

..Vs..

1. Amazon Seller Services Private Limited
(Amazon in)
Having Office at,
Brigade Gateway, 8th floor 26/1,
Dr.Rajkumar road,
Malleshwaram(W).
Bangalore-560 055
Karnatake, India.
Also at: Ground Floor,
Eros Corporate Tower,
Nehru Place, New Delhi 110 109.

2. Ms.Sandhya Jain
Residing at 72/127 Bhairav path,
patel Mansarovar, Jaipur-302029. .Respondents/Defendants

Application praying that this Hon'ble Court be pleased
to grant leave to sue the Defendants before this Hon'ble
Court.

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

The present Application has been filed *inter alia*
under Clause 12 of Letters Patent seeking 'Leave to Sue' the
Defendants/Respondents before this Court.

2.A perusal of the proposed plaint that has been placed before this Court reveals that the entity shown as 'Plaintiff' in the proposed plaint is the 'Applicant' herein. Entities shown as 'Defendants' in the proposed plaint are 'Respondents' respectively in the instant Leave to Sue Application.

3.For the sake of convenience, parties in the instant Application are referred to by their respective ranks in the proposed plaint.

4.According to the Plaintiff, they are one of the leading 'Cosmetics & Health Food Products' direct selling entity in India and that they have been marketing and selling their goods under the trademark "ON & ON" and "Elements Wellness" in their own website "www.indiashoppe.com". It is further stated by the Plaintiff that the trademark "ON & ON" has been used by the Plaintiff since the year 2013 and that their products under the said brands have attained immense reputation and goodwill amongst the general public all over India. It is also stated that the products of the Plaintiff are not sold through brick and mortar stores and are regulated by Direct Selling Guidelines issued by the Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, by notification dated 26.10.2016.

5.Learned counsel for the Plaintiff stated that the Plaintiff came to know that the 1st Defendant's e-commerce platform was selling the products of the Plaintiff under the trademarks "ON & ON" and "Elements Wellness" without any authority and that the 2nd Defendant being the Plaintiff's Direct Seller/Distributor, is illegally selling and offering to sell the Plaintiff's products on the 1st Defendant's website without any prior consent from the Plaintiff. He went on to

state that the Plaintiff is carrying on business in Chennai, wholly within the jurisdiction of this Court and that the entire cause of action has arisen within the jurisdiction of this Court.

6. Having perused the proposed plaint and the Affidavit filed in support of the instant Leave to Sue Application and in the light of the submissions made by the learned counsel for the Plaintiff, this Court is convinced that cause of action has arisen for invoking the territorial jurisdiction of this Court and therefore, the Plaintiff is entitled to Leave to Sue as prayed for.

In the result, this Application is ordered as prayed for.

Sd./- S.V.N.J.

08.04.2019

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

GJM/9.4.2019

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