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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 1243/2018

UNICHEM LABORATORIES LTD. Plaintiff

Through Mr. Sachin Gupta with Mr. Pratyush
Rao, Advocates

versus

INDIA MART INTERMESH LTD. & ORS. Defendants

Through Ms. Snehima Jauhari, Advocate
for D-1.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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07.03.2019**I.A. 3351/2019**

Present application has been filed by the plaintiff under Section 151 CPC for the modification of the order dated 19th February, 2019.

Keeping in view the averments in the application, the same is allowed and the order dated 19th February, 2019 shall read as under:-

“Present suit has been filed for permanent injunction restraining infringement of trademark, passing off, unfair competition, rendition of accounts/damages and delivery up.

At the outset, learned counsel for the plaintiff wishes to delete John Doe defendant nos. 2 to 5 (Ashok Kumars), from the present proceedings. He, however, prays that this Court may grant liberty to the plaintiff to seek restoration of the present suit against the said defendants after Goa and Mumbai Cyber Cells conclude their investigations.

In the opinion of this Court, the request made by learned counsel for the plaintiff is fair and reasonable. Accordingly,

defendant nos. 2 to 5 are deleted from the array of parties and the plaintiff is granted liberty to institute a fresh suit against the John Doe defendant nos. 2 to 5 (Ashok Kumars) after Goa and Mumbai Cyber Cells conclude their investigations. Let an amended memo of parties be filed within two days.

Learned counsel for defendant no.1-India Mart states that the defendant no. 1 has already taken necessary action of delisting the impugned listings notified by the plaintiff. He further undertakes to this Court that the defendant no. 1 will continue to do the same as and when the plaintiff notifies the impugned listings to the said defendant.

Learned counsel for the plaintiff states that he has no objection if the present suit is decreed in accordance with the aforesaid statements and undertakings given by learned counsel for defendant no. 1, provided the defendant no. 1 also agrees to share all details, including bank account details if any available with it, of the people behind the impugned listings.

Learned counsel for the defendant no. 1 has no objection to the same, provided the plaintiff uses the said information for legal action only. Plaintiff has no objection to the same.

Consequently, the statements and undertakings given by learned counsel for defendant no. 1 are accepted by this Court and defendant no. 1 is held bound by the same.

Accordingly, present suit is decreed qua defendant no. 1 in accordance with the statements and undertakings given by learned counsel for defendant no. 1. Registry is directed to prepare a decree sheet accordingly.

Registry is also directed to issue to an authorised representative of the plaintiff a certificate authorizing him/her to receive back from the Collector full amount of the Court fee paid by it in the present suit.

With the aforesaid observations, present suit and pending application stand disposed of. The interim order dated 26th November, 2018 stands modified.”

MANMOHAN, J

MARCH 07, 2019

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