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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1628/2019 and CM APPL. 49181/2019, 2949/2020, 2950/2020**

PANDIT D K PARSAI & ORS Petitioner
Through: Ms. Samvartika Pathak, Advocate
(M: 9891001999).

versus

DR SATISH CHANDAR AGARWAL & ORS Respondents
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **14.02.2020**

1. The present petition is filed challenging the impugned order dated 16th October, 2019 by which the Trial Court had simply issued summons in a suit for infringement of copyright filed by the Plaintiffs. Vide order dated 15th November, 2019, this Court had, after perusing the original books and the infringing books, by a detailed order granted an interim order restraining the Defendants in the following terms:

*“Accordingly, the Defendants are restrained from printing, selling and/or publishing any book, either in printed or electronic form, including the infringing books titled **“Compendium of Astrology, Vol – I”** and **“Compendium of Astrology, Vol - II”**, which are either a substantial reproduction or a colourable imitation or infringing copies of the Plaintiffs book - **“Star Guide to Predictive Astrology”**. Ordered accordingly.”*

2. After granting the interim injunction, this Court had also appointed

three Local Commissioners to visit the three Defendants i.e. Alpha Publishers - Defendant No.2, Ajay Arts - Defendant No. 4 and Lakshmi Book Store - Defendant No. 5. The said three commissioners were directed to execute the commissions and seize all the infringing copies of the books and also inspect the accounts.

3. The powers of the Commissioners were enhanced vide dated 21st November, 2019. The commissions have since been executed and they have visited all the three premises. Reports have been placed on record. The same have been perused. One of the Commissioners who visited the premises of Alpha Publishers has also spoken to the owner of the said publishing company namely Mr. Amrit Lal Jain who is one of the Defendants in the suit. The Commissioners have recovered the sample invoices which show that the books - *Compendium of Astrology Volumes - I and II* are being sold. The Commissioners have also seized from two of the premises, copies of the infringing books.

4. All the three Commissioners have also served the entire paper book and the copy of the orders to the Defendants. The same is now deemed to be service as per Order XXXIX Rule 3 CPC and service of notice in this petition. None of the Defendants have entered appearance in the matter.

5. The Plaintiff has now moved an application under Order I Rule 10 CPC read with Order VI Rule 17 CPC. The case of the Plaintiff in this application is that though only some books were found in the premises of the Defendants, there are online e-commerce portals which are selling the infringing books. The said portals are - saptarishis.com, www.amazon.in, <https://www.exoticindiaart.com>, www.sapnaonline.com and www.astrodevan.com. Along with the application, the Plaintiff has also

placed on record the screen shots of the said websites to show that the infringing books *Compendium of Astrology Volume- I and II* are being offered on the said portals. A perusal of the screen-shots shows that the said books are authored by Dr. Satish Chandra Aggarwal and published by Alpha Publications.

6. In view of the injunction which was granted on 15th November, 2019, the sale of these books on the online portals would be violative of the said order and the sale of these books would have to be pulled down by the said e-commerce portals. It is accordingly directed that all these e-commerce portals shall be impleaded as Defendants in the suit.

7. The injunction order dated 15th November, 2019 shall now be applicable to these e-commerce portals who, upon receipt of the notice of this order would take down the listings of the infringing books from their respective e-commerce portals. If the Plaintiff comes across any other listings of the infringing books on the e-commerce portals, they shall intimate the said portals who shall take down the listings in terms of the IT Act and the applicable Intermediary Guidelines. The amended memo of parties be filed within three days before this Court in order to enable the Registry to issue notice to these e-commerce portals.

8. Along with the notice, all the three orders dated 15th November, 2019, 21st November, 2019 and the present order shall be attached with the said notice. The Plaintiff shall also take steps to amend the memo of parties even before the Trial Court and file an amended plaint. The injunction already granted on 15th November, 2019 shall operate during the pendency of the present suit.

9. If the e-commerce portals or any of the defendants wish to seek any

variation of the interim orders granted, they are permitted to approach the Trial Court.

10. The petition with all pending applications is disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 14, 2020
MR/A.S.