

OC-6 to 8

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

IA NO. GA/2/2022
In
CS/258/2021

SHYAM SUNDAR KEDIA AND ORS
Vs
VARUN VAID

AND

IA NO. GA/1/2021
In
CS/258/2021

SHYAM SUNDAR KEDIA AND ORS
Vs
VARUN VAID

AND

IA NO. GA/3/2022
In
CS/258/2021

SHYAM SUNDAR KEDIA AND ORS
Vs
VARUN VAID

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date : 17th January, 2022

(Via Video Conference)

Appearance:
Mr. Suddhasatva Banerjee, Adv.

Ms. Manju Agarwal, Adv.
Mr. Bajrang Manot, Adv.

Mr. Satyaki Mukherjee, Adv.

The Court: The present suit has been filed with the following prayers:-

- a) Decree for Rs.1,50,12,072/- as pleaded in paragraph 20 above;
- b) Decree for Rs.6,12,615/- per month along with interest @18% p.a. as pleaded in paragraph 21 above;
- c) Interim interest and interest upon judgment @18% per annum;
- d) Decree for Perpetual Injunction restraining the defendant from disturbing the plaintiffs' occupation, possession and user, egress or ingress into or from the suit premises situated at 1, A. J. C. Bose Road, Showroom No.7, ground floor, Kolkata – described in the Schedule hereunder written;
- e) Declaration that the Memorandum of Agreement dated 11th December, 2020 being Annexure “E” hereof was voidable and has been duly voided;
- f) Mandatory injunction directing the defendant to forthwith remove its equipment, furnitures and fixtures and other belongings from the suit premises situated at 1, A.J.C. Bose Road, Showroom No.7, ground floor, Kolkata – 700 020;
- g) Perpetual injunction restraining the defendant to claim any right under the Outlet Franchise Agreement and its Addendum both dated 1st April, 2018 and/or to hold out himself as Franchisor under the said Agreement;
- h) Receiver;
- i) Injunction;
- j) Attachment;
- k) Costs;
- l) Such further and/or other relief or reliefs.

Interim applications have also been made wherein an order has been passed on an earlier occasion directing inventory of the equipment, furniture, fixtures and other belongings of the respondent defendant at the relevant premises wherein a receiver had been appointed to carry out the above inventory. Subsequently, an application for vacating has also been filed by the defendant respondent.

During course of the arguments, I have been able to persuade both the plaintiff and the defendant to reach a settlement and upon instructions received by their clients, the following settlement has been reached:-

- (A) The plaintiff shall waive the franchise fee for the month of May, 2021 and June, 2021.
- (B) The payment of franchise fee of Rs.12,96,400 (for the month of July, 2021 to January, 2022) shall be made by the defendant in two installments. The first installment of Rs. 8 lakh shall be paid by February 7, 2022 and the balance shall be paid by March 15, 2022.
- (C) Parties have agreed that they shall continue to abide by the agreement reached between the parties and specifically the terms agreed in the memorandum of agreement dated 11th day of December, 2020 henceforth. I make it clear that the parties have agreed that the enhancement of the franchise fee and payment thereof shall be in terms of Clauses (vi), (vii), (viii), (ix) and (x) of the above agreement.

(D) The above suit shall be decreed in terms of the settlement reached above.

As the parties have reached the agreement above, upon instructions from their clients, nothing remains in the interlocutory applications being GA/1/2021, GA/2/2022 and GA/3/2022 and the same are accordingly disposed of.

The suit being CS/258/2021 is decreed in terms of the settlement reached between the parties.

The court fees paid by the plaintiff is to be returned by the department within 15 days of the application for such return being made by the plaintiff.

The receiver stands discharged.

The report filed by the receiver is kept with the record.

(SHEKHAR B. SARAF, J.)