



A.No.137 of 2022, 4600, 4601 of 2021

**A.Nos.137 of 2022, 4600, 4601 of 2021**  
**in C.S.(Comm.Suits) No.380 of 2017**

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**SENTHILKUMAR RAMAMOORTHY,J**

A.No.137 of 2022 is filed by the plaintiffs seeking permission to produce three additional documents. The applicants state that these documents are relevant for the purposes of the suit because they evidence infringement by the defendants as also the revenue earned by the plaintiffs. The plaintiffs assert that these documents were not in their possession, power or custody when the suit was filed.

2. The defendant opposes this application on the ground that the impugned advertisement was stopped and, therefore these documents are not relevant.

3. In view of the fact that these documents were not in the possession, power or custody of the plaintiffs when the suit was filed and bearing in mind that these documents are *prima facie* relevant, the plaintiffs are entitled to succeed in this application. Accordingly, A.No.137 of 2022 is allowed by permitting the plaintiffs to produce the documents listed in the schedule to the Judge's summons, subject to the



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objections of the defendant, *inter alia*, on grounds of relevance and proof.

4. A.No.4600 of 2021 is filed by the defendant to produce the additional documents described in the schedule to the Judge's summons. All these documents pertain to the transactions between the defendants and Verve Media Private Limited. The defendants state that these documents could not be produced along with the suit owing to the limited time that was available and the non availability of the document at that juncture.

5. The plaintiffs oppose the application on the ground that the written statement was filed with a delay of about 860 days and therefore the statements in the affidavit in support of the application lack credibility.

6. The suit was filed in the year 2017 and the written statement appears to have been filed in October 2019. Therefore, the reasons cited by the defendant for not filing these documents along with the written statement cannot be accepted. At the same time, it should be noticed that



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the main defence of the defendant is that the impugned advertisement was produced by availing of the services of third parties on a "contract for service" basis. On such ground, the defendant asserts that it is not liable. Whether such defence is tenable or not should be determined at final disposal. Nonetheless, these documents are relevant for such purpose. However, in view of the considerable delay in producing documents which were within the power or possession of the defendant when the suit was filed, the defendants should be put on terms. Accordingly, A.No.4600 of 2021 is allowed on condition that the defendants pays a sum of Rs.30,000/- (Rupees Thirty Thousand only) as costs to the plaintiffs within a period of *two weeks* from the date of receipt of a copy of this order and subject to the objections of the plaintiffs, *inter alia*, on the grounds of relevance and proof.

7. Both parties are permitted to file the statement of admission / denial of documents filed by the counter party concerned by the next hearing date. List A.No.4601 of 2021 on 29.03.2022.

**22.03.2022**

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