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A.Nos.3767, 3980 & 3921 of 2021 in C.S.No.140 of 2020

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in

C.S.No.140 of 2020

SENTHILKUMAR RAMAMOORTHY,J

By order dated 09.08.2021 in O.A Nos.185 & 186 of 2020, this Court allowed O.A.No.185 of 2020 and thereby restrained the respondents from using the domain name “initiumpartners.in”. The present application is filed alleging wilful disobedience of the above mentioned order.

2. Learned counsel for the applicant states that the order restrained the respondents from using the domain name “initiumpartners.in”. A domain name is an address on the Internet which is in a form that is easy to read and use. Learned counsel contends that such address may be used to direct a user to a website on the Internet or to direct e-mails to and from the person who has established the e-mail address that contains the domain name. By referring to material published by the World Intellectual Property Organization (WIPO), learned counsel points out that a domain name is used not only to locate websites but also as the basis for file transfers or e-mail addresses. With regard to the



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role of Zoho, learned counsel points out that Zoho enables a subscriber with a domain name to use such domain name as part of the e-mail address or, if the subscriber does not have a domain name, Zoho enables the purchase of a domain name. In this case, it is asserted that the respondents used the domain name “ initiumpartners.in ” in wilful disobedience of the order of this Court. Therefore, it is contended that this application is liable to be allowed.

3. On the contrary, learned counsel for the respondents submits that this Court only restrained the respondents from using the domain name “initiumpartners.in” as a method of accessing the website. By drawing my attention to the finding that an injunction against the use of the trademark would substantially curtail the business of the respondents, it is submitted that the order should be construed as limited to hosting or operating the website. Learned counsel also points out that the applicant/plaintiff resigned from the partnership firm and has joined the services of a different company. Consequently, it is contended that the respondents would be greatly prejudiced and their business would suffer losses if they are restrained from using the e-mail address containing the terms “ initiumpartners.in ”.



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4. In the absence of easy-to-read domain names, domain names

would consist of a series of numbers which would be difficult to use and almost impossible to remember. Therefore, easy-to-read domain names are offered on the Internet through domain name registrars. Just as addresses are required to locate a physical site in the physical world, domain names are required as addresses either to direct the user to the site on the Internet (the website) or to enable transmission of electronic mails to and from the owner of the domain name, which is incorporated in the e-mail address.

5. As correctly contended by the learned counsel for the applicant, therefore, the use of the domain name, “initiumpartners”, by the respondents in the e-mail address violates the order dated 09.08.2021. At the same time, it should be noticed that paragraph-7 of the order leaves room for interpretation especially because it draws reference to the platform established by the applicant before the incorporation of the LLP. Consequently, in an action for wilful disobedience, the benefit of doubt should be extended to the respondents. Nonetheless, since it is clear that the order restrains the use of the domain name, whether to direct the user to the website or as part of an e-mail address, the respondents should be



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restrained from doing so. This will entail disruption to the business of the respondents unless lead time is provided.

6. The respondents are a firm of Chartered Accountants and clients would have to be informed in advance before making the transition. In order to enable the respondents to transition to a different e-mail address, lead time of one month is provided. Within the said time limit of one month, the respondents shall stop using any e-mail address containing the terms “initiumpartners.in” or any other terms deceptively similar thereto.

The application is disposed of on the above terms.

04.08.2022

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