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**O.A.Nos.1115 and 1116 of 2023
and
A.Nos.6836, 6837 and 6838 of 2023
in
C.S.(Comm. Div.)No.329 of 2023**

ABDUL QUDDHOSE.J.,

O.A.No.1115 of 2023:

Ashok Kumar Sethi and Another

... Applicants

Vs.

Amazon Technologies INC.,

... Respondent

The suit has been filed for infringement and for passing off.

2. The plaintiffs have obtained copyright registration under the Copyrights Act for the labels "Black Gold and Amin's". The plaintiffs are the manufacturers of Henna Hair Colour. They have been manufacturing the said product under the trademark "Black Gold and Amin's" ever since 1998. They have also been granted license to manufacture and sell cosmetics



eversince 15.09.1998 and the license has been periodically renewed.

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3. The plaintiffs have filed the suit since the defendant has been offering for sale through their internet platform by using an identical label of the plaintiffs in respect of the very same product Henna Hair Colour. The plaintiff has also filed the web links of the defendant, wherein an identical label of the plaintiffs is advertised without the permission of the plaintiffs. The web links, where the plaintiffs' copyright has been infringed, are found in page Nos.134 to 208 of the typed set of papers filed by the learned counsel for the plaintiffs. The web links are filed as document No.10 along with the plaint.

4. As seen from the copyright certificates, which have been filed as documents Nos.1 and 2 along with the plaint, it is clear that the plaintiffs are having the copyright in respect of their label "Black Gold" and "Amin's", which are being used by the plaintiffs for the manufacture and sale of Henna Hair Colour. They have also obtained license to manufacture and sell cosmetics eversince 15.09.1998. The said license has also been renewed periodically, as seen from document No.4 filed along with the plaint. The



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Chartered Accountant certificate has also been filed as document No.6, which would reveal that the plaintiffs are having a huge sales turnover for their cosmetic products using the trademark "Black Gold and Amin's". The plaintiffs have also filed sample invoices, which has been filed as document No.7 from the year 1993 upto 2023, which will reveal that the plaintiffs are carrying on business of cosmetic products in the trademark "Black Gold and Amin's" ever since 1993 till date.

5. The plaintiffs would have incurred huge advertisement costs for promoting their products as seen from the sample advertisements filed by the plaintiffs from the year 1994 to 1996 which has been filed as document No.8 along with the plaint. The plaintiffs, having come to know that the plaintiffs' copyright has been infringed, have also issued a cease and desist notice dated 19.06.2023 to the defendant prior to filing of the suit. Despite the same, the defendant has continued to infringe the copyright of the plaintiffs as seen from the plaint averments and the averments contained in support of these applications. It is also stated in the plaint as well as in the affidavit filed in support of these applications that even prior to the filing of the suit, the plaintiffs called upon the defendant to come for pre-suit



mediation. According to the plaintiffs, despite the same, the defendant did not come for mediation.

6. This Court at the first instance had ordered notice to the respondent / defendant in these applications. Despite service of notice on the respondent / defendant in these applications, they have chosen not to enter appearance in these applications. Sufficient opportunities have been granted by this Court for the respondent / defendant to enter appearance in these applications and defend the same. However, for the reasons best known to them, they have chosen not to defend. Therefore, the respondent is set *ex-parte* by this Court.

7. O.A.No.1115 of 2023 has been filed seeking for an interim injunction with regard to the infringement of copyright committed by the respondent / defendant. O.A.No.1116 of 2023 has been filed for passing off. A.No.6836 of 2023 has been filed for an interim direction to the respondent / defendant to take down the infringed products of the applicant / plaintiff from their internet platform. A.No.6837 of 2023 has been filed, seeking for an interim direction to the respondent / defendant to furnish the details of



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the sellers, who are infringing the applicants' / plaintiffs' copyright over "Black Gold and Amin's" and passing off of the applicants' / plaintiff's trademark "Black Gold and Amin's". A.No.6838 of 2023 has been filed to combine the cause of action of infringement of registered copyright and passing off.

8. As seen from the documents filed along with the plaint, it is *prima facie* clear that the plaintiffs are having copyright over the label "Black Gold and Amin's". They have also obtained registration for their copyright as seen from the copyright certificate for "Black Gold" dated 11.07.2019 and copyright certificate for "Amin's" dated 22.03.2019 and 12.06.2019. As seen from the documents filed along with the plaint, the plaintiff is carrying on the business of manufacturing and selling cosmetic products ever since 1998 and they have also obtained license for the same. They have also incurred huge amount of expenditure towards advertisement costs for promoting their products under the trademark "Black Gold and Amin's".



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9. Having come to know about the infringement of their copyright, they have also issued a cease and desist notice dated 19.06.2023 to the defendant, which has been filed as document No.9 along with the plaint. The web links, where the copyright of the plaintiffs has been infringed, have also been disclosed and the same has been filed as documents in document No.10 filed along with the plaint.

10. After giving due consideration to the averments contained in the plaint and the averments contained in support of these applications as well as the documents filed along with the plaint, this Court is of the considered view that a *prima facie* case has been made out by the plaintiffs for the grant of interim injunction and interim direction as prayed for in these applications. The balance of convenience and irreparable hardship has also been established by the plaintiffs in these applications.

11. For the foregoing reasons, these applications are allowed as prayed for by issuing the following directions:

a) Interim injunction is granted as prayed for in O.A.Nos.1115 and 1116 of 2023;



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b) Interim direction is issued to the respondent / defendant as prayed for in A.Nos.6836 and 6837 of 2023;

c) A.No.6838 of 2023 is allowed as prayed for as sufficient cause has been shown by the applicants for combining the cause of action.

05.02.2024

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Note: Await service of suit summons. Post the matter on 26.02.2024.



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