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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 766/2022 & I.A. 18057/2022**

SPORTA TECHNOLOGIES PVT LTD & ANR. Plaintiffs

Through: **Mr. Prithvi Singh and Ms. Shilpi
Sinha, Advocates.**

versus

MR. BIPIN CHOWDHARY Defendant

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

15.04.2024

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1. Plaintiffs are the proprietors of various trademark registrations in respect of the mark “DREAM 11”¹, which they use in respect of their online fantasy sports platform. Additionally, Plaintiff No. 2 is also the registered proprietor of the trademark “FANCODE” and its derivative marks², which is utilised by the Plaintiffs to operate a multi-sport aggregator platform for live streaming matches and offering other sports content. Plaintiff No. 2 is also the registrant of the domain name www.fancode.com.

2. Plaintiffs are aggrieved by the Defendant’s use of the trademark ‘FANCODE11’, which they contend is being used to offer identical services as the Plaintiffs, i.e., online fantasy sports. On 9th November, 2022, finding a *prima facie* case in favour of the Plaintiffs, an *ex-parte ad-interim* injunction was granted in their favour. The said injunction order was thereafter

¹ Details of Plaintiffs’ “DREAM 11” trademark registrations are delineated in Paragraphs No. 7 and 8 of the plaint.

² Details of Plaintiff No. 2’s registrations for “FANCODE” trademarks are set out in Paragraph No. 26 of the plaint.



confirmed on 11th October, 2023, and continues to operate.

3. Upon service, Mr. Kundan Roy, who was originally impleaded as the Defendant, appeared before this Court and opted to settle the matter. Accordingly, the suit was decreed on the basis of the statement made by him, as recorded in order dated 11th October, 2023. During the hearing, Mr. Roy also made a statement that he had registered the impugned domain name www.fancode11.com for one Mr. Bipin Chowdhary (*alias* Rohit). Accordingly, Mr. Roy was deleted as a Defendant whereas Mr. Chowdhary was impleaded as the Defendant and the injunction was extended to him.

4. Mr. Prithvi Singh, counsel for Plaintiffs, states that the only contact details of Mr. Chowdhary available with the Plaintiffs is his mobile number, which has been noted in Paragraph No. 11 of order dated 11th October, 2023. In absence of any other contact details, the Plaintiffs have attempted service on Mr. Bipin Chowdhary through SMS on the said phone number. However, despite service of summons, Mr. Bipin Chowdhary has not appeared or filed any written statement. The overall condonable limit set under the Code of Civil Procedure, 1908 (CPC) for filing written statement in commercial suits has also expired. In these circumstances, the right to file written statement stands closed and Mr. Bipin Chowdhary is proceeded *ex parte*.

5. Mr. Singh on instructions states that the Plaintiffs are waiving their claims for damages and costs against Mr. Bipin Chowdhary, and would be satisfied in case the Court were to grant the relief of injunction. Further, Mr. Singh states that the impugned domain name “www.fancode11.com”, for which a decree is sought in terms of Paragraph No. 45(d) of the plaint, is no longer registered with Mr. Bipin Chowdhary and is available for purchase. Thus, the Plaintiffs would also not be pressing for any decree to that effect.



Nonetheless, Mr. Singh states that the Court may permit the Plaintiffs to approach the Domain Name Registrar (DNR) of the impugned domain name—‘BigRock Solutions Ltd.’—for purchase of the said domain name, and till such time, the said DNR may grant certain time to enable the Plaintiffs to make the purchase.

6. The Court has considered the aforementioned circumstances. Plaintiffs have established their statutory rights over their “DREAM 11” and “FANCODE” trademarks, as well as the domain name “www.fancode.com”. Further, this Court has already found the Defendant’s activities on the website “www.fancode11.com” to be infringing. In light of the above, considering the fact that Mr. Bipin Chowdhary has neither appeared nor put forth any defence to the present suit, in the opinion of the Court, the Plaintiffs are entitled to a decree under Order VIII Rule 10 of CPC for the relief of permanent injunction in terms of Paragraph No. 45(a) and (b) of the plaint. As noted above, none of the other reliefs are pressed.

7. Accordingly, the suit is decreed, in favour of the Plaintiffs and against the Defendant/ Mr. Bipin Chowdhary, in terms of prayers contained in Paragraphs No. 45(a) and (b) of the plaint.

8. Decree sheet be drawn up.

9. It is clarified that the Plaintiffs shall be free to approach the DNR ‘BigRock Solutions Ltd.’ for purchase of the domain name www.fancode11.com.

10. The suit, along with pending applications, is disposed of.

SANJEEV NARULA, J

APRIL 15, 2024/as