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

+ **FAO(OS) (COMM) 223/2024**

VISAGE LINES PERSONAL CARE PVT LTD.....Appellant

Through: Ms. Swathi Sukumar, Sr.Adv.
with Ms. Tanya Varma, Mr.
Vardaan Anand, Ms. Ruchika
Yadav, Mr. Ritik Raghuwanshi
and Mr. Rishubh Agarwal,
Advs.

versus

GILLETTE INDIA LIMITED

.....Respondent

Through: Mr. Chander Lall, Sr. Adv. with
Mr. Juvraj Singh Bindra, Ms.
Nilakshi Srivastava, Ms.
Bhawna Lakhina, Ms. Muskaan
Garg, Ms. Annanya Mehan and
Mr. Abhinav Bhalla, Advs.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **01.10.2024**

CM APPL. 57968/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM APPL. 57967/2024 (Delay)

Bearing in mind the disclosures made, the delay of 20 days in
filing the appeal is condoned.

Application stands disposed of.

FAO(OS) (COMM) 223/2024 & CM APPL. 57966/2024 (Stay)

1. The present appeal has been preferred against the impugned



orders dated 12 July 2024 and 02 September 2024 passed by the learned Single Judge during the pendency of the suit proceedings.

2. We note that advertisement nos. 1 and 2 were considered firstly by the learned Judge on 16 April 2024, when the following order came to be passed:-

“I.A. 8593/2024 (seeking exemption from pre-litigation mediation)

1. As the present suit contemplates urgent interim relief, in light of the judgment of Supreme Court in ***Yamini Manohar v. T.K.D. Kriithi***, exemption from attempting pre-institution mediation is granted.

2. Disposed of

I.A. 8595/2024 (seeking exemption)

3. Exemption is granted, subject to all just exceptions.

4. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

5. Disposed of.

CS(COMM) 318/2024

6. Let the plaint be registered as a suit.

7. Issue summons. Summons are accepted by Mr. Ankur Sood, Advocate, on behalf of Defendant. He confirms the receipt of the paper-book and waives his right of formal service of summons. Written statement shall be filed within thirty days commencing today. Along with the written statement, the Defendant shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

8. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

9. List before the Joint Registrar for marking of exhibits on 16th July, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

10. List before Court for framing of issues thereafter.



I.A. 8592/2024 (u/O XXXIX Rules 1 and 2 of CPC)

11. Issue notice. Mr. Ankur Sood, counsel for Defendant, accepts notice.

12. The present suit concerns the broadcasting, printing and publication of the following advertisements issued by the Defendant to promote their product "Sensi Smart 3" shaving razor:

Impugned advertisement No. 1



Impugned advertisement No. 2



13. Mr. Sandeep Sethi, Senior Counsel for Plaintiff, argues that impugned advertisements are disparaging Plaintiffs products. In response, Mr. Sood, at the first instance, without admitting any of the allegations made in the plaint and with instructions from Mr. Nikhil Hazari, General Manager of Defendant, states that they shall remove the impugned advertisement No. 2 referred above from their website by 12:00 PM tomorrow (i.e., 17th April, 2024). He also undertakes that Defendant shall not broadcast, print or publish impugned advertisement No. 2 any further. Further, Mr. Sood states that Defendant will consider making certain modifications in order to resolve the issue in respect of impugned advertisement No.



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14. Reply, if any, be filed within one week from today. Rejoinder thereto, if any, be filed before the next date of hearing.

15. List before the Court on 30th April, 2024.”

3. During the pendency of the suit, the appellant-defendant is stated to have also come up with advertisement no. 3. This too was subjected to challenge by way of I.A. No. 33131/2024 and on which, on 12 July 2024, the learned Single Judge after going through the contents of the advertisement itself and on hearing the counsels for parties, took on board the following undertaking as came to be proffered on behalf of the appellant-defendant:

“7. In continuation thereof, learned counsel appearing for the defendant alongwith Mr. Nikhil Hazari, General Manager of the defendant today submits that the defendant shall remove the new impugned advertisement no. 3 involved in the present application from all social media platforms/electronic media latest by 06:00 PM today itself and from all forms of print media or any other form also latest by 06:00 PM tomorrow. Additionally, learned counsel for the defendant submits that he will also share a composite proposal carrying out requisite modification(s)/alteration(s) to the new impugned advertisement no. 3 involved in the present application with the learned counsel for the plaintiff on or before 15.07.2024. Learned counsel for the plaintiff in turn will respond thereto at least three days prior to the next date of hearing before this Court.”

4. The Court thereafter proceeded to injunct the appellant-defendant in the following terms:

“8. In view of the aforesaid existing situation, the defendants are in the meanwhile, directed not to come up with/upload any fresh new advertisement of the present nature in any of the social media platforms till the next date of hearing.”

5. The appellant-defendant is stated to have moved for clarification of paragraph 8 and the expression “.....of the present nature” as it appears therein. The learned Single Judge has, however, refused to pass any orders on that application presently bearing in



mind the undertaking which came to be recorded on 12 July 2024 as well as the fact that parties are pursuing the mediation process which is still ongoing.

6. Ms. Sukumar, learned counsel who appears in support of the appeal, has essentially contended that the ambiguity which stands attached to the injunction as set out in paragraph 8 is being used against the appellant-defendant with the respondent-plaintiff taking the position and construing that expression as injuncting the appellant from issuing any advertisement at all.

7. In our considered opinion, the aforesaid apprehension is clearly misplaced, since it is apparent from a reading of paragraph 8 that the learned Single Judge clearly intended to restrain the appellant-defendant from issuing only such advertisements as would be akin to and answer to the character of advertisement nos. 2 and 3 and which formed the subject matter of the orders passed. The learned Single Judge thus clearly intended to ensure that no disparaging advertisements of the nature which formed the subject matter of consideration were issued.

8. In view of the aforesaid and subject to the aforesaid clarification, the appeal is disposed of.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 1, 2024

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