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C.S. (Comm.Div.) No.218 of 2024, O.A. Nos.839 & 840 of 2024 and A.Nos.5627 to 5629 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **29.01.2025**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. (Comm.Div.) No.218 of 2024, O.A. Nos.
839 & 840 of 2024 and A.Nos.5627 to 5629 of 2024

PhonePe Private Limited

.. Plaintiff

-VS-

1.Telegram FZ LLC

2.Ashok Kumar

.. Defendants

Prayer: Civil Suit has been filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of Code of Civil Procedure, Sections 27 to 29, 134 & 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts Act to grant a judgment and decree on the following terms:

a)Permanent injunction restraining the defendants its directors, officers, agents, employees, legal representatives, successors-in-interest, assigns and any other person(s) acting on its behalf, as well as any person, anonymous or pseudonymous users operating on the first defendant platform, their successors, agents, representatives, assigns or anyone claiming through or under them from infringing plaintiff's registered trademark by developing, distributing, hosting or enabling the hosting, marketing, selling, offering for sale, advertising or otherwise dealing in any



APK, mobile application or product that bears a deceptively similar mark, name or label to the plaintiff's registered trademarks in any manner whatsoever;

b)Mandatory injunction directing the first defendant including its directors, officers, agents, employees, legal representatives, successors-in-interest, assigns and any other person(s) acting on its behalf to block, disable or remove the channels, accounts and content specified in Schedule A of the Plaint, as well as any other present or future channels, accounts or content that infringe or are connected to the plaintiff's registered trademarks or that promote, distribute or offer for sale any APKs or applications deceptively similar to the plaintiff's trademarks;

c)Permanent injunction restraining the defendants its directors, officers, agents, employees, legal representatives, successors-in-interest, assigns and any other person(s) acting on its behalf, as well as any person, anonymous or pseudonymous users operating on the first defendant platform, their successors, agents, representatives, assigns or anyone claiming through or under them from hosting, distributing, marketing, selling, offering for download or otherwise disseminating any APK files, mobile applications or digital goods and the content specified in Schedule B of the Plaint and from engaging in any similar present or future acts of hosting, distributing, promoting or making available for download any APK files or digital goods that bear, incorporate or use marks deceptively similar to the plaintiffs registered trademarks or that otherwise misappropriate the plaintiff's intellectual property;



d)Permanent injunction restraining the second defendant as well as any person, anonymous or pseudonymous users operating on the first defendant platform, their successors, agents, representatives, assigns or anyone claiming through or under them from impersonating the plaintiff or misrepresenting themselves as being associated with or authorized by the plaintiff in any manner, whether by using the plaintiff's name, logo, trademarks or any other identifying mark deceptively similar to that of the plaintiff from collecting money, soliciting payments or receiving any financial benefit from the public, vendors or third parties under the false pretence that they are associated with or acting on behalf of the plaintiff or engaging in any fraudulent, deceptive or misleading activities designed to cheat or deceive vendors, users or the general public through the sale, promotion or distribution of fake or counterfeit APKs, mobile applications or any other digital goods falsely claiming association with the plaintiff or operating, administering or managing any websites, digital platforms, social media accounts or any other online or offline means that facilitate the aforementioned deceptive practices, either directly or indirectly;

e)Declare the plaintiff's registered mark 'PhonePe' as wellknown Trademark under Section 2 (1) (zg) read with Section 11 of the Trade Marks Act, 1999 and issue consequently directions to appropriate authorities;

f)Direct the defendants jointly and/or severally pay to the plaintiff as compensatory and punitive damages a sum of Rs.10,00,000/- for the acts of infringement of trademark committed by them;

g) An order as to costs of the proceedings.



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For plaintiff : Mr.P.Giridharan

For D1 : Mr.Thriyambak J.Kannan

For D2 : exparte

J U D G M E N T

As directed by this Court in its earlier order dated 20.01.2025, Registry has printed the name of the second defendant in the cause list today. On 20.01.2025, the substituted service effected on the second defendant by the plaintiff through paper publication was taken on record. Till date, no one has entered appearance on behalf of the second defendant. Hence, the second defendant is set ex-parte by this Court.

2.Learned counsel for the plaintiff has made an endorsement in the court bundle stating that as and when any infringing link or channel is hosted on the first defendant's platform, on the plaintiff's request, the first defendant shall take down the same and in terms of the said endorsement, the suit may be decreed.



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3.Learned counsel for the first defendant, on instructions, agrees to the same.

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4.Accordingly, this suit is decreed by directing the first defendant to remove the infringing content in the first defendant's platform as and when the plaintiff intimates the first defendant about the same in respect of the subject matter of the dispute. No costs. Consequently, connected applications are closed.

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ABDUL QUDDHOSE, J.

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