



WEB COPY

A.Nos.1541 & 1542 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 26.04.2025	PRONOUNCED ON 30.04.2025
---------------------------	-----------------------------

CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.Nos.1541 & 1542 of 2025

in

C.S.No.1 of 2023

Himanshu Pathak
Proprietor of Cyber X9
Flat No.B-3, 504,
Shurya Green Apartment,
Surya Enclave, Jalandhar-I,
Jalandhar, Punjab – 144 009.

... Applicant/1st Defendant

vs.

1.Star Health and Allied Insurance Company Ltd.,
Having its registered office at No.1,
New Tank Street, Valluvarkottam High Road,
Nungambakkam, Chennai – 600 034.
Rep., by its Authorised Signatory/Power of Attorney
Mr.Amarjeeli Shanuja,
Chief Information Security Officer.

... 1st Respondent/Plaintiff

2.Akshit

... 2nd respondent/2nd Defendant

For Applicant : Mr.Vaibhav R.Venkatesh

For Respondent : Mr.Sivathanu Mohan for

M/s.Ramasubramaniam Associates for R1



R2 – Set exparte on 20.08.2024.

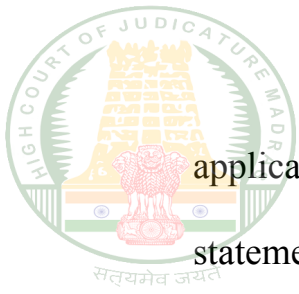
COMMON ORDER

WEB COPY

These applications have been filed to grant leave to the applicant/1st defendant to file Additional Written Statement and additional documents in support of the additional written statement in the present Suit.

2) Heard Mr.Vaibhav R.Venkatesh, learned counsel appearing for the Applicant and Mr.Sivathanu Mohan learned counsel appearing for the first respondent.

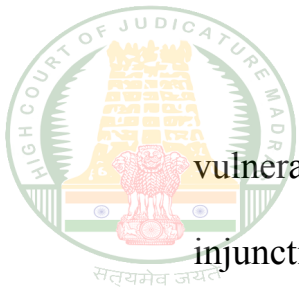
3) The learned counsel appearing for the applicant would submit that this application has been filed to grant leave to file additional written statement and also additional documents in support of the additional written statement. He would submit that the applicant is a customer of the first respondent/plaintiff and while accessing his policy from the website of the first respondent, he found that the said website was vulnerable by cyber attacks and therefore, he had earlier called upon the first respondent to avail his services to rectify such vulnerability, as he is also an expert in that field. However, without rectifying the defects, a Police complaint had been lodged against him by alleging that the



WEB COPY

applicant had tried to extract money. The applicant had filed a detailed written statement to the plaint filed by the first respondent/plaintiff, but thereafter, it had come to the knowledge of the applicant that the first respondent/plaintiff's website was hacked by a Chinese hacker, which would therefore only support the case of the applicant of his claim of vulnerability and therefore, he had filed an additional written statement bringing about the subsequent facts and the documents related therein. Therefore, he would pray this Court indulgence to permit the applicant to file an additional written statement along with the necessary documents in the instant applications.

4) Countering his arguments, the learned counsel appearing for the first respondent/plaintiff would contend that the claim of the respondent/plaintiff in the Suit is an injunction restraining the defendants therein from publishing/sharing or dealing with the illegally accessed information relating to the plaintiff and for a mandatory injunction directing the defendants to hand over the illegally accessed information and to further pay a sum of Rs.5,00,00,000/- as compensation. He further submits that the vulnerability of the website of the first respondent/plaintiff is being taken care of at the end of the plaintiff. Even in the application, the applicant had admitted that he had accessed to certain information because the website of the first respondent was



vulnerable. The plaintiff has come forward with the instant Suit only for an injunction restraining him from publishing the accessed information and the return of the accessed information together with damages for accessing their website which he is not authorised too. Therefore, the applicant stands or fall on his averments and he cannot claim to publish information that he had illegally accessed of the third parties, whose privacy may be compromised and also cannot claim to withhold such illegally accessed information. Therefore, the averments in the additional written statement or documents in support of such averments, will not be helpful to the applicant. Therefore, he prays this Court to dismiss the Application.

6) I have heard the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

7) The Suit has been filed for the following reliefs:-

a) Permanent injunction restraining the defendants and their men, agents, servants, representatives and persons acting for and on behalf of the defendants from in any manner publishing/sharing/dealing with the 'illegally accessed information' relating to the plaintiff and any of the insured customers of the plaintiff in any form whatsoever



WEB COPY

A.Nos.1541 & 1542 of.



which may prejudice the interest of the plaintiff and/or its customers;

b) Mandatory injunction directing the defendants and their men, agents, servants, representatives and persons acting for an on behalf of the defendants to hand over 'illegally accessed information' morefully set out and described in Vulnerabilities Report dated 19 December 2022 including all such information/details relating to the plaintiff and/or its customers as may be stored in the computer systems/network/any other kind or memory device/hardware or software to the plaintiff;

c) Direct the defendants to pay a sum of Rs.5,00,00,000/- (Rupees Five crores) as compensation to the plaintiff for illegally accessing the IT systems of the plaintiff and gaining/attempting to gain illegal and unauthorised access to the information relating to plaintiff and its customers.

8) Further, this Hon'ble Court had already granted an order of interim injunction on 07.06.2023, restraining the respondent therein from illegally accessing the information of the applicant and directing the respondent to hand over the accessed information, in O.A.No.3 of 2023 and A.No.17 of 2023. The said order was put to challenge in O.S.A.Nos.109 and 110 of 2023, wherein the Division Bench directed the applicant to furnish the data available with him



relating to the first respondent/plaintiff, while simultaneously granting a stay on the appointment of an Advocate Commissioner. In compliance with the interim orders passed by the Division Bench, the applicant placed the details available with him in a sealed cover before the Court. This compliance was duly recorded by the Hon'ble Division Bench in its order dated 12.06.2024 in O.S.A.Nos.109 and 110 of 2023.

9) The issue involved in the lis initiated by the first respondent/plaintiff pertains to a suit for injunction, seeking disclosure of the information that was allegedly illegally retrieved by the applicant, and for the return of such information, along with a claim for compensation. Further, as already referred above, this Hon'ble Court had granted an order of mandatory injunction to that effect. In compliance with the interim orders, the applicant has admittedly placed before this Court a sealed cover containing the information that he had retrieved from the first respondent/plaintiff's website.

10) The issue involved in the lis is not with regard to the vulnerability of the first respondent/plaintiff's website. The law holds it illegal for a third party to retrieve any information from the website of the another without their permission. This was the reason which this Court granted an interim injunction



A.Nos.1541 & 1542 of.



restraining the applicant from publishing the retrieved information from the first respondent's website.

WEB COPY

11) When such being an illegal act, the applicant now seeks to bring on record a further illegal act committed by a third person to defend himself. The illegal acts committed by the third parties, cannot be taken advantage of by the applicant to defend his case. Even for exercising a fundamental right, a person cannot claim equality in illegality.

12) For the aforesaid reasons, I do not find any merits in these applications and accordingly, these Applications in A.Nos.1541 & 1542 of 2025 are dismissed. However, there shall be no order as to costs.

30.04.2025

Index : Yes / No
Internet : Yes / No
Pbn



WEB COPY



A.Nos.1541 & 1542 of.

K.KUMARESH BABU.J.,

Pbn

Pre-Delivery Order in
A.Nos.1541 & 1542 of 2025
in
C.S.No.1 of 2023

30.04.2025