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

Date of decision: 26th February, 2019

+ **CS(OS) 104/2019 & I.A. 2577/2019**

PATANJALI AYURVED LIMITED & ANR. Plaintiffs

Through: Mr. Rajiv Nayyar & Mr. Darpan Wadhwa, Senior Advocates with Mr. Simranjeet Singh, Mr. Rohan Ahuja, Ms. Sonali Dhir & Mr. Aadhar Nautiyal, Advocates (M-8826374673)

versus

GOOGLE LLC. & ORS. Defendants

Through: Mr. Sajan Poovayya, Senior Advocate with Ms. Mamta, Ms. Priyadarshi Banerjee, Mr. Shruttima & Ms. Sakshi Shalani, Advocates for D-1&2 (M-9502321779)
Mr. Parag P. Tripathi, Senior Advocate with Mr. Tejas Karia, Ms. Richa Srivastava, Mr. Shijo George, Ms. Nayantara Narayan, Mr. Dhruv Bhatnagar, Mr. Rishabh Kapur & Ms. Mishika, Advocates for D-3 (M-9717892442)

**CORAM:
JUSTICE PRATHIBA M. SINGH**

Prathiba M. Singh, J. (Oral)

1. The Plaintiffs – Patanjali Ayurved Limited and Swami Ramdev through his Power of Attorney holder have approached this Court by filing the present suit for permanent and mandatory injunction and damages. The

Defendants in the suit are Google LLC (Defendant No.1), YouTube Inc. (Defendant No.2), Facebook, Ireland (Defendant No.3) and unknown Defendants.

2. The case of Plaintiff No.1 is that it manufactures and sells various herbal nature-based products and herbal medicines under the trademark 'Patanjali'. Plaintiff No.1 claims to be one of the fastest growing FMCG companies in India. It is the case of the Plaintiffs that the various home care products, cosmetics, food and beverages and health drinks sold under the mark 'Patanjali' have acquired enormous goodwill and reputation and the annual turnover of the Plaintiff No. 1 company is approximately Rs.9,000 crores. Plaintiff No.2, who is the brand ambassador of Plaintiff No.1 company being a proponent of various fields such as Yoga and Ayurveda, also claims to enjoy enormous goodwill.

3. It is the case of the Plaintiffs that they came across a video uploaded by some unknown person who made several defamatory, disparaging and threatening statements against the Plaintiffs. In view of the allegations, defamatory statements and threats contained in the video, the Plaintiffs called upon YouTube, to remove the same. It was also found that links to the YouTube video were available on Facebook's platform. Notices were issued by the Plaintiffs for removal of the video. The Plaintiffs' complaints were not entertained and hence the Plaintiffs approached this Court by means of the present suit. The reliefs prayed in the plaint are as under:

“i. Pass a decree of permanent injunction in favour of the Plaintiffs and against the Defendants whereby directing the Defendants to permanently take down, remove and/ or block/restrict access to the video/URL/weblink mentioned in the list of documents

attached with the present Complaint and/or any other active Videos/URLs/weblinks which contain or purport to contain, the defamatory Video/URL/Weblink or part thereof posted on their respective websites and/or also from all media across the globe in the control of the Defendants, including but not limited to the websites, mobile application, etc;

ii. Pass a decree of mandatory injunction in favor of the Plaintiffs restraining the Defendants, its agents, officers, assigns, representatives from thereby directing the Defendants to forthwith block/remove the impugned video/ weblink/URL from their websites, webpages, mobile application, etc. across the globe;

iii. Pass a decree of permanent and mandatory injunction in favor of the Plaintiffs and against the Defendants thereby directing the Defendants to block/remove the impugned Videos from its websites/portals across the globe on receipt of any complaint in future from the Plaintiff in regard to the videos/URLs/Weblinks containing same and/or similar subject-matter; and also from all media in the control of the Defendants, including but not limited to their websites, mobile applications, another platforms;

iv. Pass a decree of Permanent Prohibitory Injunction in favor of the Plaintiffs and against the Defendants for restraining the Defendants or other news agencies from reporting any news with respect to the impugned videos or its content thereof;

v. Pass a decree of damages to the tune of Rs. 2,01,00,000/- in favour of the Plaintiffs and jointly and severally against the Defendants;

vi. for costs of this suit; and

vii. Any other and further reliefs as this Hon'ble Court may deem fit and proper to meet the ends of justice.”

4. On 19th February, 2019, summons and notices were issued to the Defendants. The Defendants entered appearance on 21st February, 2019. It was submitted by Ld. Senior Counsels appearing for the Defendants that they would remove the offending video on the URLs/links mentioned at page 19 of the plaint only for the India domain. The Court, on the said date passed the following order:

“

A perusal of the impugned video which was viewed by the Court on the last date shows that the same is extremely offending in nature and explicit language that is used in the video is not just defamatory and deprecating but also constitute a threat to Plaintiff No.2.

In this context, the Defendants submit that while jurisdiction can be exercised for blocking the URLs and weblinks in the Indian domain, any direction for blocking it internationally, ought to be passed after hearing the Defendants. Ld. Senior Counsel for the Plaintiffs has submitted that he relies on the policy of YouTube itself, which clearly provides that any videos which incite violence would be contrary to the policy of YouTube. A copy of the policy be handed over to the Defendants.

List on 26th February, 2019 for further submissions on behalf of the Defendants. In the meantime, URLs/weblinks, given at page 19 of the documents annexed to the plaint, shall be blocked in India within 48 hours.

Further, the Defendants shall also obtain the basic subscriber information of the entity/person who has uploaded the video. The same may be brought in a sealed cover. The Plaintiffs are also directed to place the video in a pen drive along with the actual Hindi

*transcript in Court before the next date.
List on 26th February, 2019. Dasti.”*

5. Today, it is submitted by Mr. Sajan Poovayya, Ld. Senior Counsel appearing for Google and YouTube that the video, which is in Hindi language has now been viewed by the internal team at Google and Youtube. The safety policy of YouTube specifically prohibits any threatening or predatory behaviour including stalking, harassment, intimidation or invasion of privacy. It is submitted that on the video being viewed, Defendants No.1 and 2 have come to the conclusion that the video is contrary to YouTube's policies. Accordingly, Defendants No.1 and 2 have voluntarily decided to remove the video from their platforms internationally.

6. Mr. Parag Tripathi, Ld. Senior Counsel appearing for Facebook submits that instead of Facebook, Ireland, the correct entity that is to be impleaded is Facebook Inc., (Facebook Inc, 1601, Willow Road, Menlo Park, CA 94025 United States). Accordingly, Facebook Inc., is replaced in place of Facebook, Ireland as Defendant No.3. Let the amended memo of parties be filed by the Plaintiffs within a period of one week. It is submitted by Mr. Tripathi that the video available on Facebook is the link to the YouTube platform and since the video has itself been removed by YouTube, the source itself having been removed, no further steps would be required to be taken by Facebook.

7. Mr. Rajiv Nayyar, Ld. Senior Counsel on the other hand submits that the earlier stand of Google and YouTube in restricting the availability of the video only in the India domain is contrary to law. In fact, when the videos are so offensive in nature, the platforms have a duty to take down the said video upon intimation being given to them. Mr. Poovayya, Ld. Senior

Counsel submits that the reason why the video was not removed at the time when the Plaintiffs first brought it to the notice of Defendants No.1 and 2 was because the complaint was premised on defamation and disparagement and not hate speech or threats.

8. This court has viewed the video. The video shows a protagonist casting various aspersions, making wild allegations and levelling threats against the Plaintiffs. The person appearing in the video *inter alia*,:

- Makes defamatory statements against Plaintiff no.2;
- Makes derogatory remarks against the Plaintiff No.2 mentioning various castes;
- Threatens violence against Plaintiff no.2;
- Threatens to abduct Plaintiff no.2 from his house irrespective of the security he has;
- Refers to Plaintiff no.2 as 'Dhongi', 'Saala' etc.,
- States that the products sold by Plaintiff no.1 are 'nakli';

The offending video, uses extremely explicit language and is not just defamatory and derogatory towards the Plaintiff but also threatening, constitutes intimidation and seeks to encourage unknown people to harass the Plaintiffs. Reckless and wide ranging statements are made in the video against the products of Plaintiff No.1. The video clearly is in violation of law. The community guidelines of YouTube, which have been placed on record prohibit the following:

“Threats

Things like predatory behaviour, stalking, threats, harassment, intimidation, invading privacy, revealing other people's personal information, and inciting others to commit violent acts or to violate the Terms

of Use are taken very seriously. Anyone caught doing these things may be permanently banned from YouTube.

Hateful content

Our products are platforms for free expression. But we don't support content that promotes or condones violence against individuals or groups based on race or ethnic origin, religion, disability, gender, age, nationality, veteran status, or sexual orientation/gender identity, or whose primary purpose is inciting hatred on the basis of these core characteristics. This can be a delicate balancing act, but if the primary purpose is to attack a protected group, the content crosses the line.

Harassment and cyberbullying

It's not ok to post abusive videos and comments on YouTube. If harassment crosses the line into a malicious attack it can be reported and may be removed. In other cases, users may be mildly annoying or petty and should be ignored."

9. The video clearly is violative of the above guidelines which Google and Youtube have prescribed for themselves. The video is also not just offensive against the Plaintiffs but could border on threats constituting violations of law. Defendants No.1 and 2 have therefore rightly removed the video from their platforms. Facebook Inc. (Defendant No.3) is also directed to ensure that the links to the said video links are no longer made available on its platform.

10. If there are any further instances of the same video being uploaded, which come to the knowledge of the Plaintiffs, in view of the above findings of the Court, the Plaintiffs are permitted to intimate the Defendants and the

Defendants shall take down the video within 48 hours. Having heard the submissions of the parties and in view of the stand taken by Google and YouTube, since the video itself has now stated to have been taken down not just on the India domain but from all the international platforms of Google and YouTube no further orders are required to be passed in the present suit.

11. The question as to whether platforms such as the Defendants can be directed to remove, block or disable content on the international domain and not merely on the India domain is left open to be adjudicated in an appropriate case.

12. The basic subscriber information of the person/entity who has uploaded the video, as directed in the last order dated 21st February, 2019, shall be filed in a sealed cover in Court with an advance copy to the Plaintiffs. Upon receiving the basic subscriber information of the persons/entities that had uploaded the impugned video, the Plaintiffs are permitted to avail their remedies in law.

13. With these directions, the suit is disposed of in the above terms.

FEBRUARY 26, 2019

Rahul

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**PRATHIBA M. SINGH
JUDGE**