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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS (COMM) 232/2021 & I.As. 6565-6567/2021
BENNETT COLEMAN CO LTD ... Plaintiff
Through Mr.Ashish Verma and Mr.Arnab
Sanyal, Advs.
versus
WHATSAPPINC & ORS. ... Defendants
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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21.05.2021

This hearing is conducted through video conferencing.

CS (COMM) 232/2021

Let the plaint be registered as suit.

Issue summons to the defendants by e-mail and whatsapp, returnable for 18.08.2021.

I.A. 6566/2021(exemption)

Allowed subject to just exceptions.

I.A. 6567/2021(exemption from filing court fees)

Court fees be filed within four weeks.

Application is disposed of.

I.A. 6565/2021

1. This is an application under Order 39 Rule 1 and 2 CPC seeking an ex parte injunction to restrain the defendant Nos. 1 to 9 their representatives,

agents etc. from copying, reproducing, adopting, distributing, transmitting, disseminating in any manner etc. on “WhatsApp”, “Telegram” etc. through mobile or in any other domain name or on any website /portal / domain or in any manner to infringe the rights in the e-newspaper of the plaintiffs published by the plaintiff through print and on their websites epaper.timesofindia.com and epaper.navbharattimes.com in which the plaintiff owns a valid and subsisting copyright and trade mark. Other reliefs are also sought.

2. It is the case of the plaintiff that the newspaper The Times of India belongs to the plaintiff and is India’s most widely circulated English daily which came into being on 03.11.1838 and is rated amongst world’s six best newspapers and also attracts a daily circulation of more than a million copies. Other newspaper brands owned by the plaintiff are The Economic Times, Navbharat Times, Maharashtra Times, Sandhya Times etc. Plaintiff is stated to be the registered proprietor of several trademarks which are listed in para 7 of the plaint. It is stated that on account of the extensive and varied use of the above trademark that plaintiff acquired high degree of distinctiveness.

3. The plaintiff’s publications are said to be widely considered of high repute. The news articles published in the plaintiff’s newspapers are published with indication/credit to the specific named source for instance PTI, Reuters etc. Such news articles / contents published on plaintiff’s website as well as in its newspapers constitute “the original literary work” within the meaning of copyright thereby being entitled copyright protection under Section 14 of the Copyright Act. Plaintiff is the exclusive owner of the copyright of said literary works, possessing the rights to reproduce the

same in any material form and also to protect from infringement of its copyright. The plaintiff has also commenced offering its print publication in digitised format i.e. E-papers, on its website on a subscription model whereby a consumer can subscribe to the same upon paying a subscription fee and user can readily access times group newspapers.

4. In June, 2020 the plaintiff became aware of unauthorized and illegal circulation/distribution of the plaintiffs proprietary e-newspapers by user of the platform of Defendant No.1 as well as by various websites providing the plaintiffs e-newspaper for free download. It is stated that defendant No.1 owns and operates a well known mobile and web based application which supports sending and receiving of variety of media text, photographs etc. Defendant No.3 is a cloud based instant messaging and voice over IP service. Defendant Nos.1 and 3 grant access to its users to form groups for broadcasting messages to a large number of persons at one go. Defendant Nos.4 to 9 are the administrators of WhatsApp groups viz “Media Guru” etc. Defendant No.10 comprises of infringing WhatsApp groups, telegram channel indulging in unauthorized and illegal transmission and dissemination of the plaintiff’s proprietary e-newspapers. It is further stated that due to access and permission granted by defendant No.1 and 3 to various users numerous channels and groups are created by known and unknown administrator / users namely defendant No.4 to 10 wherein various e-papers of the plaintiff have been unauthorizedly and illegally uploaded in PDF form on daily basis.

5. The plaintiff being exclusive owner of the copyright in the said literary work therefore possesses all rights to it in any material forms. Defendants are illegally circulating copies of e-newspaper owned by the

plaintiff which violate the rights of the plaintiff.

6. Plaintiff has made out a prima facie case. An interim injunction is granted in favour of the plaintiffs and against the defendant Nos.1 to 9 in terms of para 29 (a) of the application. An interim injunction is also granted in terms of para 29 (b) against defendant No.10.

7. The Plaintiff to comply with Order 39 Rule 3 CPC within one week from today.

8. Issue notice to the defendants through e-mail and whatsapp, returnable for 18.08.2021.

JAYANT NATH, J.

MAY 21, 2021/st