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

+ **CS(COMM) 652/2023 & I.A. 18237/2023**

**ANIL KAPOOR**

..... Plaintiff

Through: **Mr. Pravin Anand, Ms. Nimrat Singh, Mr. Dhananjay Khanna, Ms. Uditya Patro and Ms. Sampurna Sanyal, Advocates.**

versus

**SIMPLY LIFE INDIA & ORS.**

..... Defendants

Through: **Mr. Gautam Wadhwa, Advocate for D-3.**

**Mr. Rishab Raj Jain and Mr. Raghav Awasthi, Advocates for D-11.**

**Mr. Mrinal Ojha, Mr. Debarshi Dutta, Ms. Tanya Chaudhry and Mr. Arjun Mookerjee, Advocates for D-19.**

**Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Alexander Mathai Paikaday, Mr. Lakshay Gunawat and Mr. Krishnan V., Advocates for D-22 & 23.**

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

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**30.04.2024**

**I.A. 25331/2023(u/O I rule 10 r/w Section 151 of CPC on behalf of Plaintiff)**

1. For the grounds and reasons stated in the application, the same is allowed.



2. Address of Defendant No. 16 is substituted by the address mentioned in paragraph no. 6 of the application. Amended memo of parties annexed with the application is taken on record.
3. Disposed of.

### **CS(COMM) 652/2023**

4. Upon filing of process fee, issue summons to Defendant No. 16 at the address: '*522 Reena complex, RN Road Vidyavihar West, Next to Vidyavihar Bus Depot, Mumbai, Maharashtra – 400086*', by all permissible modes. Summons shall state that the written statement shall be filed by the Defendant within 30 days from the date of receipt of summons. Along with the written statement, Defendant No. 16 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.

5. 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 No. 16, 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.

6. The present suit pertains to the publicity and personality rights of Mr. Anil Kapoor, the Plaintiff. It is alleged that the Defendants have been directly and indirectly exploiting and misappropriating the unique and identifiable attributes of the Plaintiff's persona – including use of Plaintiff's name, voice, signature, image and other attributes – which are exclusively identifiable with him. According to Plaintiff, such use, which is being done



for commercial and personal gain without Plaintiff's consent and authorisation, tarnishes his image and amounts to dilution of the Plaintiff's personality rights.

7. This Court, on 20<sup>th</sup> September, 2023, while issuing summons in the suit, granted an interim injunction protecting the Plaintiff's rights by passing following directions:

*"47. Accordingly, the Plaintiff has established a, *prima facie*, case for grant of an *ex parte* injunction. Balance of convenience lies in favour of the Plaintiff in the present case considering that the Defendants are infringing his personality rights as well as right to privacy. If an injunction is not granted in the present case, it will lead to irreparable loss/harm to the Plaintiff and his family, not only financially but also with his right to live with dignity.*

*48. Defendant Nos.1 to 16 or anyone acting for or on their behalf are restrained from utilizing the Plaintiff-Anil Kapoor's name, likeness, image, voice, personality or any other aspects of his persona to create any merchandise, ringtones, ring back tones, or in any other manner misuse the said attributes using technological tools such as Artificial Intelligence, Machine Learning, deep fakes, face morphing, GIFs either for monetary gains or otherwise to create any videos, photographs, etc., for commercial purposes, so as to result in violation of the Plaintiff's rights.*

*49. Defendant No.17-PDR Ltd., Defendant No.19-GoDaddyLLC and Defendant No.20-Dynadot LLC are directed to immediately lock and suspend the domain names [www.anilkapoor.in](http://www.anilkapoor.in), [www.anilkapoor.net](http://www.anilkapoor.net) and [www.anilkapoor.com](http://www.anilkapoor.com).*

*50. Ld. Counsel for Defendant No.19 submits that Defendant No.18-Domains by Proxy LLC would not be necessary as a party, as Defendant No.19 has the control over the domain name [www.anilkapoor.com](http://www.anilkapoor.com). Accordingly, Defendant No.18 is deleted as a party. The other unknown persons are also restrained from disseminating the videos, the links of which are attached to the present order as 'Annexure A'. The said links shall be taken down immediately by all ISPs.*

*51. The DoT/MeitY upon receipt of this order shall issue blocking orders in respect of all these links and any other links, which may upload pornographic videos of the Plaintiff. Mr. Harish V. Shankar, ld. CGSC is requested to communicate this order to the DoT/MeitY. DoT/MeitY are henceforth impleaded as Defendant Nos.22 and 23 respectively in the present suit. Let an amended memo of parties be filed by the Plaintiff deleting Defendant No.18 as a party within 2 weeks.*

*52. The three domain name registrars i.e., Defendant Nos.17, 19 and*



20 shall inform the Plaintiff of the registrants of the domain name [www.anilkapoor.in](http://www.anilkapoor.in), [www.anilkapoor.net](http://www.anilkapoor.net) and [www.anilkapoor.com](http://www.anilkapoor.com), within a period of one week from communication of this order to them.

53. Insofar as these three domain names are concerned, *ld. Counsel for the Plaintiff* submits that Plaintiff wishes to take over these domain names. Accordingly, the three domain names shall be transferred in favour of the Plaintiff upon payment of requisite charges. Details of the account to which the transfer of charges is to be affected shall also be communicated to *ld. Counsel for the Plaintiff*.

54. Compliance of Order XXXIX Rule 3 CPC is permitted by email considering the large number of Defendants, and the fact that most of the contact details may not be available. Insofar those Defendants for whom postal addresses are available, the Plaintiff shall also in addition do compliance by speed post service."

### **Defendants No. 2, 4-10, 12, 13**

8. Mr. Pravin Anand, counsel for Plaintiff, states that Defendants No. 2, 4 to 10, 12 and 13 have all been served. Mr. Anand further states that he has confirmed the fact of service from the court record and previous orders. In particular, order dated 16<sup>th</sup> November, 2023 takes note of the service effected on Defendants. None of the aforesaid Defendants have filed their written statements within the time permissible. Moreover, the overall condonable limit of 120 days for filing written statement has also expired. In absence of any written statement, and the fact that the time period for filing one has expired, their right to file written statement stands closed. Accordingly, placing reliance on Order VIII Rule 10 read along with Order XIII-A of Code of Civil Procedure, 1908 (CPC) and Rule 227 of IPD Rules<sup>1</sup>, presses for suit to be decreed against the said Defendants. Further, Mr. Anand states on instructions that Plaintiff is only pressing for relief of injunction and waives the prayers for damages and costs.

9. In view of the above discussion and in absence of any defence on

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<sup>1</sup> Delhi High Court Intellectual Property Rights Division Rules, 2022



behalf of the said Defendants, the Court has proceeded to adjudicate the present suit against the afore-noted Defendants on the basis of the pleading and documents on record. The evidence exhibits the reprehensible manner in which the Defendants' activities blatantly misuse the Plaintiff's name, likeness, image, persona, etc. Such actions undoubtedly result in the tarnishment and damage to the Plaintiff's reputation, while also infringing on his right to privacy and personality rights. Therefore, the Court concurs with the observations made in order dated 20<sup>th</sup> September, 2023, that such misuse cannot be permitted, and therefore the Plaintiff is entitled to a decree of permanent injunction to that effect.

10. Accordingly, the suit is decreed in favour of Plaintiff and against Defendants No. 2, 4 to 10, 12 and 13 in terms of injunction reliefs sought in Paragraphs No. 104 (i) to (v) of the plaint.

11. Decree sheet be drawn up.

### **Defendants No. 1 and 14**

12. As regards Defendants No. 1 and 14, Mr. Anand states that there has been an amicable settlement between Plaintiff and the said Defendants, and applications under Order XXIII Rule 3 of CPC to that effect have already been filed *vide* Diary Nos. 1302398/2024 and 1393156/2024. The Court shall consider the same as and when such applications are listed.

### **Defendant No. 3**

13. As regards Defendant No. 3, Plaintiff has filed the replication on 28<sup>th</sup> April, 2024 *vide* Diary No. 1287195/2024. Mr. Anand states that he will follow up with the Registry to have the replication placed on record before the next date of hearing and also supply a copy thereof to the counsel for



Defendants.

14. Be that as it may, although pleadings are yet to be completed, Mr. Gautam Wadhwa, counsel for Defendant No. 3, has expressed an inclination to resolve the matter amicably. Accordingly, it is understood that Mr. Anand and Mr. Wadhwa shall interact with each other to work out terms of settlement. If they are able to amicably resolve the disputes, they shall consider applying for a consent decree under Order XXIII Rule 3 of CPC.

15. It is also noted that Mr. Wadhwa has tendered the cost in terms of the previous order dated 27<sup>th</sup> March, 2024, which has been handed over to the counsel for Plaintiff in the Court.

### **Defendant No. 11**

16. Plaintiff alleges that Defendant No. 11 is misusing Plaintiff's personality rights in the following manner:

anil kapoor poster (13674 products available)

Location Enter city Near me All India Delhi Bengaluru Mumbai Thane Jaipur Ahmedabad Hyderabad Advanced Search View by: Grid

**Filters**

- Shop Now
- Video
- Search in Company names

**Related Category**

- Men Suits
- Camphor Tablet
- Printed Poster
- Camphor
- Smokeless Camphor
- Bhimsenl Camphor
- Camphor Cone
- Camphor Powder
- Posters
- 3D Posters
- Wall Posters
- Safety Poster
- Religious Posters



17. Mr. Rishab Raj Jain, counsel for Defendant No. 11, states that the name of the entity promoting the impugned listing is mentioned as 'Paridhan Showroom', described as a 'Retail Showroom of Jodhpuri Suit & Custom Made Partywear Suits by Paridhan Showroom, Jodhpur'. In contrast, Mr. Jain submits that Defendant No. 11's showroom is known as 'Paridhan IN', which is a proprietorship concern of Ms. Mona Ajmera. Mr. Jain further clarifies that although the address mentioned on the IndiaMart website corresponds to that of Defendant No. 11, however, his clients have never uploaded the aforenoted picture on the IndiaMart website. Thus, the onus lies on IndiaMart to explain how the picture is associated with Defendant No. 11's name. Mr. Jain adds that although an oral request was made to IndiaMart to remove the picture, no action has been taken. Nonetheless, he will send a formal communication to this effect and share a copy thereof with the counsel for the Plaintiff.

18. Mr. Anand states that once such communication is provided to them, they will determine the next course of action. Be that as it may, he insists that, in light of the above stand of Defendant No. 11, it is incumbent upon IndiaMart to explain how the Plaintiff's picture and Defendant No. 11's details were uploaded on their platform without the consent of either the Plaintiff or Defendant No. 11.

19. Additionally, it is noticed that the written statement filed by Defendant No. 11 is delayed by 64 days. Mr. Anand states that he has no objection to the said delay being condoned. An application to that effect has been filed on 26<sup>th</sup> April, 2024 *vide* Diary No. 1255035/2024. As and when the such application is listed, the Joint Registrar shall deal with the same having regard to Plaintiff's no objection being taken on record.



### **Defendant No. 15**

20. As regards Defendant No. 15, Mr. Anand states that the said Defendant is using Artificial Intelligence to create fake images, which requires Court's consideration. Although, there is no presence of Defendant No. 15 and there is no written statement on their behalf, the Court shall proceed to hear Mr. Anand on the next date of hearing.

### **Defendant No. 17**

21. Defendant No. 17 is the Domain Name Registrar (DNR) of domain name [www.anilkapoor.net](http://www.anilkapoor.net), which is registered in the name of Defendant No.16. Despite being served, Defendant No. 17 has not filed any written statement. Nonetheless, the proper party to contest the Plaintiff's claim is Defendant No. 16, who must provide reasons for registering the domain name in question. Since fresh summons have been issued to Defendant No. 16, further orders in this regard will have to be deferred.

### **Domain Names**

22. As far as domain names [www.anilkapoor.com](http://www.anilkapoor.com), [www.anilkapoor.in](http://www.anilkapoor.in) and [www.anilkapoor.in](http://www.anilkapoor.in) are concerned, the Court had directed the concerned DNRs to immediately lock and suspend the said domain names, as well as inform the details of registrants of the same to the Plaintiff. Ms. Tanya Chaudhry, counsel for Defendant No. 19, states that they have provided the requisite details of registrants to the Plaintiff.

23. It is also noticed that the Court had, at Paragraph No. 53 of order dated 20<sup>th</sup> September, 2023, directed DNRs to transfer the aforenoted three domain names in the name of Plaintiff upon payment of requisite charges. However, that is an inadvertent error as, in the opinion of the Court, any



such direction for transfer should be pursuant to adjudication of the Plaintiff's claim, after allowing the said registrants an opportunity to answer such claim. Therefore, as of now, concerned DNRs are directed to furnish details of registrants of respective domain names www.anilkapoor.com, www.anilkapoor.in and www.anilkapoor.in to Plaintiff, who are then permitted to take steps to implead them as parties to the present suit. The domain names shall, however, in terms of directions issued in Paragraph No.49 of the order dated 20<sup>th</sup> September, 2023, remain locked and suspended. The order dated 20<sup>th</sup> September, 2023 stands clarified in the above terms.

24. In light of the aforesigned directions, re-notify on 23<sup>rd</sup> July, 2024.

**SANJEEV NARULA, J**

**APRIL 30, 2024**

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