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

+ CS(COMM) 576/2020

I.A.12685/2020 (exemption)

I.A.12686/2020 (under Order II Rule 2 CPC)

I.A.12687/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A.12688/2020 (exemption)

I.A.12689/2020 (under Section 151 CPC for taking on record video in CD and Pen Drive)

1 AUTH TECHNOLOGIES PVT. LTD. & ANR. Plaintiff

Represented by: Mr.Krishnendu Datta, Sr.Advocate
with Mr.Arun Wighmal, Advocate.

versus

SAWOLABS TECHNOLOGIES PVT. LTD. & ORS. Defendant

Represented by: Mr.Chander Lall, Sr. Advocate with
Mr.Ankur Sangal, Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **24.12.2020**

The hearing has been conducted through video conferencing.

I.A. 12688/2020 (exemption from filing certificate of Court Fees)

1. Learned counsel for the plaintiffs states that the Court fee has been applied for and will be filed within two weeks.

2. Same be filed within two weeks. Application is disposed of.

I.A.12685/2020 (exemption)

1. Exemption allowed subject to just exceptions.

2. Application is disposed of.



I.A.12689/2020 (under Section 151 CPC for taking on record video in CD and Pen Drive)

1. By this application, the plaintiffs seek leave to place on record the videos through Pen Drive.
2. Leave granted. The Pen Drive has been received by the Court. Registry will place the Pen Drive along with the file on record.
3. Application is disposed of.

CS(COMM) 576/2020

I.A.12686/2020 (under Order II Rule 2 CPC)

1. Complaint be registered as a suit.
2. Issue summons in the suit and notice in the application to the defendants.
3. Mr. Ankur Sangal, Advocate accepts summons in the suit and notice on the application on behalf of the defendant Nos. 1 to 3.
4. Written statements to the suit and reply affidavits to the application along with the affidavits of admission-denial be filed within thirty days. Replication and rejoinder affidavit along with the affidavit of admission-denial within three weeks thereafter.
5. List the suit and application before the learned Joint Registrar for completion of service, pleadings and admission-denial of documents on 9th March, 2020.
6. List the suit and application before Court on 27th April, 2021.

I.A.12687/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Notice. Learned counsel for the defendant Nos. 1 to 3 accepts notice in the application.



2. The present suit has been filed by the plaintiffs, inter alia, seeking a decree of injunction against the defendants alleging violation of their confidential data, copyright, report and trade secret as also for delivery up, damages and rendition of accounts.

3. Case of the plaintiffs is that the plaintiffs had an idea of creating an App which did not require a password access and in this regard, plaintiffs associated defendant No. 2 as an investor. The defendant No. 2 had represented to the plaintiff No. 2 that he had a good startup which he had sold and had number of ideas besides experience therein. Based on the defendant No.2's representation, the plaintiffs shared some documents of the plaintiffs with the defendant No.2 i.e. (i) Product brief containing its stage-wise development schedule; (ii) Prototype of the Application; (iii) Detailed project report; (iv) Survey report conducted by the plaintiffs and (v) Technical proposals of I.T. vendors containing the architectural design of the App in question. The plaintiffs thus claim copyright in serial numbers (i) to (iv) mentioned hereinbefore as also rights in the confidential data which have been breached by the defendants by putting up the same on their website and commercially exploiting the same. The plaintiffs, on pages 63-64 of the plaint show that the architectural drawing which was transmitted by the plaintiff No.2 to the defendant No.2 is exactly the same as that which was transmitted as is evident from the defendant No.2's website noted on page 64 of the plaint. At the hearing today, learned counsel for the plaintiffs also submits that after the advance copy of the plaint was served, the defendant No.2 removed the architectural drawing from its website.

4. Further, from pages 38 to 44 of the plaint, the plaintiffs have given a tabulation showing that the contents of the project report which was



conveyed by the plaintiffs to the defendant No.2 are verbatim the same in the web page of the defendants. Further, from pages 45 to 60, plaintiffs have shown that the contents of the web page of the defendants are substantially same to that of the contents of the report of the plaintiffs. Plaintiffs have taken this Court through Whatsapp conversations shared between the plaintiff No.2 and the defendant No.2, whereby various links and attachments transferred to defendant No.2, have also been depicted, which show, prima facie, that the product brief, prototype of the application, detailed project report and survey report conducted by the plaintiffs besides the architectural drawings were conveyed to the defendant No.2. According to the plaintiffs, plaintiffs came to know that based on the material supplied by the plaintiffs, the defendant No. 2 has created his own App and is now commercially exploiting the same as is evident from the Article he has put up in 'Outlook Business Magazine' on 12th November, 2020.

5. Learned counsel for the defendants firstly states that the plaintiffs neither have the copyright nor any rights in the confidential data, for the reason, the copyright and the confidential data belonged to the vendors in respect to the architectural drawings. Secondly, the project was prepared by one of the interns of the plaintiffs and thirdly, the App which the plaintiffs wanted to start was already existing in U.S. and the plaintiffs were thus copying the same App and there was nothing new so that copyright could inhere on the plaintiffs.

6. Considering the fact that the report of the defendant No.2 launching its website as also its App appeared on 12th November, 2020, in view of the contest laid by the defendants, this Court deems it fit to grant a short time to



the defendants to file the reply. Consequently, the reply affidavit be filed within ten days. Rejoinder affidavit be filed within four days thereafter.

7. List the application for hearing before Court on 11th January, 2021.

8. In the meantime, the defendants are directed to take down the contents on their website from pages 38 to 60 as noted in the plaint. The defendants are also restrained from commercializing their App, if they have not already commercialized the same. Along with the reply affidavit, the defendants will also place on record documents evidencing the date from which the App was commercialized, if already commercialized and the statements of accounts thereof.

9. Copy of the order be uploaded on the website of this Court.

MUKTA GUPTA, J.

DECEMBER 24, 2020
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