



\$~19(Original Side)

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

+ **CS(COMM) 572/2020 & I.A. 11925/2021**

ELSEVIER LTD. AND ORS.

..... Plaintiffs

Through: Mr. Amit Sibbal, Sr. Adv. with
Mr. Saikrishna Rajgopal, Ms.
Sneha Jain, Mr. Siddharth
Chopra, Ms. Disha Sharma, Mr.
Saksham Dhingra, Ms. Surabhi
Pande & Ms. Snehima Jauhari,
Advs.

Mr. Jawahar Raja and Mr.
Archit Krishna, Advs. on behalf
of Intervenor Ram
Ramaswamy Et Al

versus

ALEXANDRA ELBAKYAN AND ORS. Defendants

Through: Mr. Rohit Sharma, Mr. Rounak
Nayak, and Ms. Arju
Chaudhary, Advocates for
Delhi Science Forum and
Society for Knowledge
Commons

Mr. Harish Vaidyanathan
Shankar, CGSC, Adv. Miss. S.
Bushra Kazim, Adv. for D12 &
13

Mr. KR Sasiprabhu & Mr.
Tushar Bhardwaj, Advs. for D8,
Reliance Jio Infocomm Limited

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% 15.09.2021

I.A. 11925/2021 (under Section 151 of the CPC, 1908 – for

CS(COMM) 572/2020

Page 1 of 4



appropriate directions)

1. This application, at the instance of the plaintiff, adverts to an undertaking given by the defendant, before this Court on 24th December, 2020, which stands recorded in Para 6.2 and 6.3 of the order passed on the said date thus:

“6.2 However, given the stand taken by Mr. Sibal, Mr. Jain says no new articles or publications, in which the plaintiffs have copyright, will be uploaded or made available, by defendant no. 1/Alexandra Elbakyan, *via* the internet, till the next date of hearing.

6.3 The statement of Mr. Jain is taken on record.”

2. On 6th January, 2021, the aforesaid undertaking granted by Defendant No. 1 was directed to ‘continue till the next date of hearing’.

3. There is no subsequent order extending the undertaking.

4. The present application has been filed by the plaintiff, contending that, while the defendant was abiding by the aforesaid undertaking thereafter, it is now acting in breach of the undertaking. As such, the plaintiff seeks a direction from the Court, binding the respondent by the aforesaid undertaking, granted on 24th December, 2020, and extended on 6th January, 2021.

5. Mr. Gopal Sankarnarayanan, learned Counsel for the defendants, submits that no ground, for issuance of any such direction, is made out. He has placed on record, judicial authorities on which, according to him, clearly hold that the undertaking would continue



only till the date which it was given, and not thereafter.

6. Mr. Sibal, *per contra*, submits that the decisions on which Mr. Sankarnarayanan relies, are cases in which, the *interim* order was extended, either for a specific date or for a specific period of time, and not orders in which the extension was “till the next date of hearing”.

7. He submits that the expression, “next date of hearing”, has been interpreted by the Supreme Court to mean the date on which the Court applies its mind. That, he submits, has not happened after 6th January, 2021; resultantly, according to him, a clear case for extension of the undertaking is made out.

8. Mr. Sankarnarayanan seeks a short adjournment to place the response to this application on record. Mr. Sibal, opposes the request on the ground that repeated prejudice is resulted to the plaintiff, as a consequence of the breach of the undertaking by Defendant No. 1.

9. In any event, as this is a fresh application, issue notice returnable on 21st September, 2021. Notice is accepted on behalf of Defendant No. 1 by Mr. Nilesh Jain.

10. Reply, if any, be positively filed on or before 18th September, 2021, with advance copy to learned Counsel for the plaintiff, who may file his response thereto, before the next date of hearing and also by way of e-mail to the Court Master.



11. Re-notify on 21st September, 2021.

SEPTEMBER 15, 2021

SS

C.HARI SHANKAR, J