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

+ **CS (COMM) 406/2020 I.As. 8773-74/2020, 11347/2020,
15368/2021, 5947-48/2022**

WORKNEST BUSINESS CENTRE LLP & ANR. Plaintiffs

Through: Mr. Sachin Gupta, Mr. Pratyush Rao,
Ms. Jasleen Kaur, Ms. Swati Meena
and Ms. Snehal Singh, Advocates.
(M:9811180270)

versus

MS WORKNESTS THROUGH SH RAJESH GOYAL..... Defendant

Through: Mr. Sanjay Kumar Ghosh, Advocate.
(M:9810097983)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **18.04.2022**

1. This hearing has been done through hybrid mode.

I.A. 15368/2021 (for early hearing)

2. This is an application for early hearing. The matter is taken up for hearing today.

3. ***I.A. 15368/2021*** is disposed of.

I.As. 8774/2020 & 5947/2022 (for exemption)

4. Allowed, subject to all just exceptions.

5. ***I.As. 8774/2020 & 5947/2022*** are disposed of.

I.A. 11347/2020(u/O VI R 17 CPC)

6. This is an application under Order VI Rule 17 CPC, seeking deletion and impleadment of certain parties. In view of the order dated 19th January, 2022 passed in ***I.A. 975/2022***, being the subsequent application under Order VI Rule 17 CPC, Mr. Gupta, Id. Counsel for the Plaintiffs, does not press



this application.

7. Accordingly, ***I.A. 11347/2020*** is disposed of.

I.A. 5948/2022

8. This is an application filed by the Defendant, seeking to place on record certain documents to show the Defendants' prior user of the mark that is the subject matter of the present dispute, in a sealed cover. Since the names of the clients of the Defendant are mentioned in the same, he prays that the same may be permitted to be filed in a sealed cover.

9. Permission is granted. Let the documents be handed over to the Court.

10. After a perusal of the same, the Court would pass appropriate orders, if required, for disclosure of the said documents, after redacting any confidential portions.

11. ***I.A. 5948/2022*** is disposed of, in these terms.

CS(COMM) 406/2020 & I.A. 8773/2020(for stay)

12. The issue in this case relates to the trademark 'WORKNEST' of the Plaintiffs and 'WORKNESTS' of the Defendant, both as a mark and as a name in respect of 'co-working spaces'. The Plaintiffs have a co-working space establishment in Noida, while the Defendant has a co-working establishment in Kolkata. The mark and services being identical, the question between the two parties, is as to who is the prior user and prior adopter of the mark/name.

13. A detailed chart has been placed on record by the Defendant depicting their use of the mark 'WORKNESTS', as against the dates of the Plaintiffs' usage of the mark 'WORKNEST'. The Plaintiffs claim prior user on the basis of registration of the domain name www.worknest.co.in on 21st April, 2018 in the name of a group company and the registration of the mark



‘WORKNEST’ in a logo form in the name of Mr. Prithvi Raj Batra - Plaintiff No.2. The Defendant, on the other hand, claims prior user on the basis of GST registration in 7th December, 2018 and incorporation of the corporate entities prior to that of the Plaintiff No.1. The turnover figures of both the parties have not yet been placed on record.

14. This matter requires examination as to who would be construed as a “prior user” of the mark and as to whether the Plaintiffs enjoy statutory rights in the mark which was registered by Plaintiff No.2 on a proposed to be used basis. Accordingly, the parties are directed to place on record their turnover figures, since the date of the adoption of the present marks till date, along with the GST records/ payments made by them to third parties, in order to assess the extent of business of both the parties.

15. In the meantime, since there may be actual confusion being created in the market as the marks are identical and services which are being provided are identical, it is directed that the Defendant shall not extend beyond the state of West Bengal, till the next date of hearing.

16. The sealed cover be filed in the Registry and be sent to the Court on the next date of hearing.

17. List ***I.A. 8773/2020*** for hearing on 22nd August, 2022.

18. It is also noticed that the amended plaint in this matter has been placed in the Applications File in the e-file, annexed with ***I.A. 975/2022***. The Registry is directed to place the amended plaint in part 1 of the e-file.

PRATHIBA M. SINGH, J.

APRIL 18, 2022

dj/sk