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

+ CS(COMM) 1146/2018

EICORE TECHNOLOGIES PVT. LTD. & ORS..... Plaintiff

Through Mr.Akhil Sibal, Sr.Adv. with
Mr.Deepak Khurana, Mr.Vineet Tayal,
Mr.Abhishek Bansal and Mr.Pradeep Chhindra,
Advs.

versus

EEXPEDISE TECHNOLOGIES PVT. LTD. & ORS..... Defendant

Through Mr.Sandeep Sethi, Sr.Adv. with
Ms.Deepshikha Malhotra and Ms.Vrinda Pathak,
Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

28.09.2018

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IA 13267/2018

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CS(COMM)1146/2018 & IA 13266/2018

Plaint be registered as suit. Issue summons in the suit and notice on the application to the defendants by ordinary process and speed post, returnable on 13.11.2018.

IA 13265/2018

1. This application is filed seeking ex parte ad interim injunction to restrain the defendants No.1 to 19 from infringing/offending or violating plaintiff No.1 and 5's copyright in the original literary work "HealthBuzz", plaintiff's confidential data, information and trade secrets. Interim injunction



is also sought to restrain the defendants from holding out as associates or affiliates of, or in any manner connected with, any of the plaintiffs or of their subsidiaries or associate companies; marketing, selling, using, giving on license, providing support services, carrying out any form of modification or development on the software “Health Buzz” or providing services in any form which is substantially identical to that of ‘HealthBuzz’, namely, ‘HealthIns’. Plaintiff has filed the accompanying suit seeking a decree of permanent injunction and damages. The case of the plaintiff is that some of the defendant’s employees in the course of their employment with the plaintiff have allegedly fraudulently created parallel business entity, namely, Defendants No.1 to 3 without the knowledge of the plaintiff and have misused their association with the plaintiff. It is pleaded that the defendants have misused the confidential information, goodwill and even the resources of the plaintiffs No.1 to 4 to divert legitimate business of plaintiff Nos.1 to 4 to defendants No.1 to 3. The employees of the plaintiffs, namely, defendants No 4,6, 8,10,12,14 to 19 are said to have resigned sometimes between October 2016 to July 2017. It is pleaded that the defendants are now selling the software ‘HealthIns’ which is substantially and identically similar to HealthBuzz. Hence, the present suit as noted above.

2. The defendants have on seeing the matter in the list entered appearance and have also been given a copy of the paper book. Learned senior counsel for the defendant has pointed out that sometimes in 2017 some FIRs were lodged by the plaintiffs against the defendants and pursuant to lodging of these FIRs certain settlement agreement were entered into between the parties including an Adhoc agreement dated 21.11.2017 with



intent to mutually settle the disputes and an Addendum Agreement which is said to be in the custody of the Custodian Lal Lahiri & Salhotra, Attorneys-at-Law, a sole proprietorship firm, providing legal consultancy services at the address RCY House, Plot No.B-28, Sector-32, Institutional Area, Gurgaon, Haryana 122001. It is submitted that in terms of the Ad hoc Agreement defendants have agreed to pay to the plaintiff a sum of Rs.3.5 crores as per agreed schedule for litigation fee and other expenses incurred and damages till the date of execution of the agreement. It is stated that out of these instalments the first four instalments amounting to Rs.1,15,00,000/- have already been paid on account of which Addendum Agreement gets triggered.

3. He firstly submits that in view of these agreements it is the Courts in Gurgaon which have the territorial jurisdiction to deal with the matter. He further submits that in view of the agreements the entire dispute between the parties stands settled and no further proceedings could have been initiated by the plaintiff. He also submits that this Court may summon the Addendum Agreement lying with the custodian as that agreements has a material bearing on the present dispute raised by the parties.

4. After some arguments, learned senior counsel for the defendant on instructions states that defendants have not sold or commercially dealt with the software HealthIns and also shall not deal with the same till the next date of hearing. He further submits that the defendants will not represent themselves as an agent of the plaintiffs to any third party.

5. At this stage, learned senior counsel for the plaintiff has, however, submitted that the defendants are illegally trying to provide service to some of the clients of the plaintiff who are using the software HealthBuzz. He



submits that the defendants cannot be permitted to service the said software HealthBuzz as in the License Agreement entered into by the plaintiffs with its customer the right to carry on servicing of the said software lies exclusively with the plaintiff.

6. This plea of the plaintiffs would be gone into on the next date of hearing.

7. Issue notice to the defendants. Learned counsel for the defendants accepts notice. Reply be filed within two weeks. In the meantime, notice be issued to Lal Lahiri & Salhotra to file in court the original Addendum Agreement between the parties.

8. Copy of the order be taken dasti by learned counsel for the plaintiff to be served on Lal Lahiri & Salhotra.

9. At this stage, learned senior counsel for the plaintiff submits that this court should pass an order at least in terms of prayer (a) of the application. Learned senior counsel for the defendant, however, submits that the defendant does not have any confidential data or trade secrets of the plaintiff. He also submits that the defendants are not printing, publishing, reproducing, copying or plagiarizing or otherwise dealing in any manner with the software “Health Buzz”.

10. The statement of defendants is taken on record and they shall be bound by the same.

11. Rejoinder, if any, be filed within one week.

12. List for arguments on 13.11.2018.

JAYANT NATH, J

SEPTEMBER 28, 2018/n