



\$~4

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

+ CS(COMM) 593/2019

SANDISK LLC & ANR.

..... Plaintiffs

Through: Ms. Shwetasree Majumdar, Mr.
Prithvi Singh and Mr. Shantanu
Rawat, Advs.

Versus

GULF SHOPPE

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

24.10.2019

IA No.14906/2019 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

IA No.14905/2019 (u/O XI R-1(4) CPC)

3. For the reasons stated, the plaintiffs are permitted to file the additional documents latest with the replication, if any.
4. The application is disposed of.

CS(COMM) 593/2019 & IAs No.14903/2019 (u/O XXXIX R-1&2 CPC) & 14904/2019 (u/S 135 of Trade Marks Act, 1999 r/w u/O XXVI R-9&10 CPC)

5. The suit is listed subject to office objection that the valuation done by the plaintiffs of the reliefs claimed being only qua court fees and not qua jurisdiction.
6. The counsel for the plaintiffs has been informed to in future make the requisite correction.
7. Else, the objection does not come in the way of considering the suit.

CS(COMM) 593/2019

Page 1 of 4



8. The plaintiffs have sued the defendant for permanent injunction to restrain the defendant from counterfeiting the trade mark and trade dress of the plaintiff, amounting to infringement of trade mark and copyright in the trade dress of the plaintiffs.

9. Issue summons of the suit and notice of the application for interim relief to the defendant by all modes including *dasti* and electronic returnable on 6th February, 2020.

10. The plaintiffs, on the basis of averments made in the plaint and the documents filed therewith have made out a case for grant of *ex-parte* ad-interim injunction.

11. The defendant, till further orders, is restrained from manufacturing, marketing, offering for sale, selling, advertising or dealing with products

SanDisk

bearing the plaintiffs' registered trade mark 'SanDisk' logo and 'Red Frame Logo' and/or any mark/s similar or deceptively similar thereto and/or from using packaging identical or similar or deceptively similar to the packaging of the plaintiffs as described in the suit.

12. The plaintiffs, on the basis of averments made in the plaint have also made out a case for *ex-parte* issuance of commission.

13. Commission is issued to Mr. Rajesh Goyal, Advocate (Mob.9871906568) to visit the premises of the defendant at:

Gulf Shoppe,
3, 4, 5, Bellarmin Complex,
Mainguard Gate, Opposite Joseph College Church,
Tiruchirappalli (Trichy)-620002



and to seize all goods and packaging materials bearing the plaintiffs

SanDisk

trade mark 'SanDisk' logo and 'Red Frame Logo' and/or packaging identical or similar or deceptively similar to the packaging of the plaintiff as well as all records containing particulars of stocks/sales of such products and to, after making an inventory of the same, seal the same and entrust the same on *superdari*, if any offered by the defendant.

14. The Commissioner is permitted to be accompanied by the representative/s of the plaintiffs.

15. The defendant and the owner/s/proprietor/s/occupants of the aforesaid premises is/are also directed to co-operate in execution of the commission and to allow the Commissioner access to all their stocks, goods, records of accounts, advertisement materials etc. and to disclose the particulars of any other place where the counterfeit goods are stocked. The Commissioner to visit the said premises also and execute the commission there as well.

16. The commission, if required, be executed by breaking open locks and door.

17. The Station House Officer of the Police Station having jurisdiction over the premises to be visited by the Commissioner is directed to render necessary assistance to the Commissioner, if sought, to ensure that the commission is executed.

18. The commission proceedings, if so desired, be videographed / photographed.

CS(COMM) 593/2019

Page 3 of 4



19. The Commissioner to submit his/her report with inventories/photographs/videographs, within one week of execution of the commission.
20. The fee of the Commissioner is fixed at Rs.1 lakh to be paid in advance by the plaintiffs, besides out of pocket expenses.
21. The provisions of Order XXXIX Rule 3 of CPC be complied with either at the time of execution of the commission or within 24 hours thereof.
22. IA No.14904/2019 is disposed of.

RAJIV SAHAI ENDLAW, J.

OCTOBER 24, 2019
'bs'..