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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 232/2016, IA No.3650/2016 (u/O 39 R-1&2 CPC), IA
No.3651/2016 (u/O 11 R-1(4) CPC, IA No.3653/2016 (u/S 80 r/w
Section 151 CPC) & IA No.8041/2016 (for directions)
OLX BV & ORS Plaintiffs

Through: Mr. Nishchal Anand & Mr. Aman
Taneja, Advs.

Versus

PADAWAN LTD & ORS Defendants

Through: Mr. Shashi Shekhar, Ms. Sanjay
Kapoor, Mr. Jaiyesh Bakshi, Mrs.
Sonali Jaitley Bakshi, Mr. Ravi Tyagi
& Ms. Ranjana Jaitly, Advs. for D-
8&10.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **15.12.2016**

1. The three plaintiffs viz. OLX B.V. & OLX India B.V., both situated at Netherland and OLX India Pvt. Ltd., a company within the meaning of the Indian Companies Act, 1956, instituted this suit to restrain the 13 defendants from using automated or manual means to scrape any data including commercial data pertaining to the plaintiffs website and computer resources thereby amounting to breach of the terms of use of the plaintiffs' website and trespass to chattel and for ancillary reliefs.
2. The counsel for the plaintiffs explains, that anyone can post advertisements on the plaintiffs website; the defendant no.1 Padawan Ltd. started copying the contents from the plaintiffs website and posting the same on its own website and to restrain which *inter alia* the present suit was filed.



He further states that the defendants no.2 to 13 Bharat Sanchar Nigam Ltd., Mahanagar Telephone Nigam Ltd., Data Infosys Ltd., Bharti Airtel Ltd., Bharti Infotel Pvt. Ltd., Aircel Cellular Ltd., Hathway Cable & Datacom Ltd., Vodafone India Ltd., Idea Cellular Ltd., Tikona Digital Networks Pvt. Ltd., Ashok Kumar(s), Department of Telecommunications, Department of Electronics & Information Technology are the internet service providers, impleaded as proforma defendants to ensure compliance of the orders sought in this suit.

3. It is further stated that on 31st March, 2016 the defendants no.11 to 13 viz. Ashok Kumar(s), Department of Telecommunications, Department of Electronics & Information Technology viz. were given up.

4. The counsel for the plaintiffs further states that the defendant no.1 has vide communication dated 30th August, 2016 to the counsel for the plaintiffs, and filed under the list of documents dated 6th September, 2016 of the plaintiffs, informed the plaintiffs that the defendant no.1 has closed the classified website “thegooddeal.in” on which the defendant no.1 was earlier posting the data lifted from the website of the plaintiffs.

5. The counsel for the plaintiffs on enquiry whether the subject website has indeed been shut down by the defendant no.1, replies in the affirmative.

6. I may notice that vide *ex parte* ad-interim order dated 31st March, 2016 in this suit, the defendant no.1 was restrained from violating the copyright of the plaintiffs in any of its literature or artistic work or photographs or any other copyright material in the proprietorship and ownership of the plaintiffs as stated in Annexure-A to the plaint but not limited thereto and from using the trademark and logo ‘OLX’ of the



plaintiffs and the defendants no.2 to 10 were directed to assist the plaintiffs in ensuring that the defendant no.1 does not violate the interim order of the Court.

7. The counsel for the plaintiffs states that this suit be decreed in terms of prayer paragraph 48 (a) to (d) of the plaint against the defendant no.1 only and the plaintiffs are not pressing for the other reliefs claimed.

8. A perusal of the order sheet shows no report of service of summons of the suit on the defendant no.1.

9. However the letter dated 30th August, 2016 aforesaid of the defendant no.1, in my view, is sufficient proof of the defendant no.1 being in the know of the suit and having been served with the notice thereof.

10. None appears for the defendant no.1.

11. The defendant no.1 is proceeded against *ex parte*.

12. In view of the defendant no.1 having allowed the relief to which the plaintiffs now confine the claim in the suit, the need for *ex parte* evidence is not felt. Even otherwise, I am on the basis of pleadings and documents on record and following the judgment in *Satya Infrastructure Ltd. Vs. Satya Infra & Estates Pvt. Ltd.* 2013 SCC Online Del 508 of the view that the plaintiffs are entitled to the relief of injunction against the defendant no.1 as sought.

13. A decree is accordingly passed, in favour of the plaintiffs and against the defendant no.1, only of permanent injunction in terms of prayer paragraph 48(a) to (d) of the plaint, leaving the parties to bear their own costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

DECEMBER 15, 2016/‘gsr’..

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