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

+ CS(OS) 165/2023 & I.As. 4477/2023, 4480/2023

X

.....Plaintiff

Through: Mr. Abhishek Malhotra, Ms. Srishti
Gupta, Advocates

versus

HTTPS WWW HOSTISERVER COM AND ORSDefendants

Through: Ms. Deepika Pokharia, Mr. Priyansh
Kohli, Advocate for D-13
Mr. Ankit Parhar, Mr. Abhishek
Kumar, Advocates for D-28 and D-30
Ms. Mamta Rani Jha, Mr. Rohan
Ahuja, Ms. Shruttima Ehersa,
Advocates for D-31
Ms. Moha Paranjpe, Advocate for D-
32 & D-33
Mr. Siddhartha Iyer, Advocate for D-
35
Mr. Vaibhav Gaggar, Mr. Dev Karn
Singh, Advocate for D-68

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **20.11.2024**

I.A 39492/2024 (filed by defendant no. 13 under Order I Rule 10, CPC
seeking its deletion)

1. Counsel for Defendant No. 13/Fastly Inc. (**'Fastly'**) submits that it is an "intermediary" offering content delivery, security and computing services across a global network. She states that with reference to the present suit, Fastly provided its internet intermediary, support, professional and other



services including ‘content delivery acceleration services’ to its customers *i.e.* Reddit Inc. (Defendant No. 28) and Imgur Inc. who are the hosts of the impugned URLs identified against it. She states that since Fastly exercises no control over the said URLs, it cannot take down/remove/block access to the same.

1.1. She states that the aforesaid averments have also been made in I.A 39492/2024 (under Order I Rule 10, CPC) filed by Fastly seeking deletion from the array of parties. She states that along with the said Application, an Affidavit has also been placed on record on behalf of Imgur Inc. stating that the impugned URLs under its control have already been taken down and are no longer accessible. She states that thus, any relief to that effect has already been satisfied. She states that since no such URLs were or are hosted by Fastly, therefore, no relief can be sought against it.

2. Learned counsel for the plaintiff states that in view of the statements made by defendant no. 13 in I.A 39492/2024, he has instructions to state that defendant no. 13 be deleted from array of parties.

3. Accordingly, I.A. 39492/2024 is hereby allowed and defendant no. 13 is deleted from the array of parties.

4. The plaintiff is directed to file an amended memo of parties within two weeks.

CS(OS) 165/2023

5. A suit for permanent and mandatory injunction has been filed on behalf of the Plaintiff making following prayer:

“I. Pass a decree of mandatory injunction against websites *i.e.*, Defendants 1 to 28 and intermediaries such as Defendant No. 29 and 30, their partners, proprietors, their officers, servants, agents and representatives, franchisees, and all others in the



capacity of principal or agent, acting for and on their behalf, directing them to globally take down, remove, block, restrict, permanently destroy and disable access, to the Suit Images and Videos including audio-visual footage, clip, picture audio only and/or any part of the Suit Images and Videos in any other electronic or other form featuring the Plaintiff without the express authorization and consent of the Plaintiff;

- II. Pass a decree of permanent injunction restraining websites i.e., Defendants 1 to 28 and intermediaries such as Defendant No. 29 and 30, their partners, proprietors, their officers, servants, agents and representatives, franchisees, and all others in capacity of principal or agent, acting for and on their behalf from broadcasting / communicating to public/ making available to viewers/ users through online platforms, the Suit Images and Videos including audio-visual footage, clip, picture audio only and/or any part of the Suit Images and Videos in any other electronic or other form featuring the Plaintiff , without the express authorization and consent of the Plaintiff;
- III. Pass an order making the aforesaid order applicable to the mirror/redirect/alphanumeric websites/mobile applications created by the Defendant Nos. 1 to 28 or by any other person to grant access to the websites/mobile applications of Defendant Nos. 1 to 28 or any other rogue website that the Plaintiff comes across;
- IV. Pass an order permitting the Plaintiff to file an affidavit before the Joint Registrar to implead the mirror/redirect/alphanumeric websites/mobile applications under Order I Rule 10 CPC in the event they merely provide new means of accessing the same primary infringing websites that have been enjoined;
- V. Pass an order of permanent and mandatory injunction against Defendant No. 35, restraining him from uploading/ hosting/ broadcasting / communicating to public/ making available to viewers/ users through online or other platforms, the Suit Images and Videos including audio-visual footage, clip, picture audio only and/or any part of the Suit Images and Videos in any other electronic or other form featuring the Plaintiff , and directing him to permanently destroy and delete



the Suit Images and Videos including audio-visual footage, clip, picture audio only and/or any part of the Suit Images and Videos in any other electronic or other form featuring the Plaintiff which is in his possession;

- VI. Pass an order for mandatory injunction against ISP Defendant Nos. 36 to 67 to permanently block and disable access to Defendant websites i.e. Defendant Nos. 1 to 28, as these Defendants indulge in hosting illegal pornographic content in India;
- VII. Pass an order giving the Plaintiff liberty to notify all search engines, including Defendant No. 31 to 34 and intermediaries, namely, Defendant No. 29 and 30, respectively to globally de-index and de-reference from their search results, the offending Suit Images and Videos including audio visual content, footage, clip, picture or any part thereof, as identified by its Web URL and Image URL, including de-indexing and de-referencing all concerned web-pages, cache memory, cookies, sub-pages or sub-directories on which the offending Suit Images and Videos of Plaintiff are available;
- VIII. Pass an order directing the search engines i.e., Defendant No. 31 to 34 and such as i.e., Defendant No. 29 and 30 to endeavour to use automated tools, to proactively identify and globally disable access to any content which is exactly identical or similar to the offending Suit Images and Videos including pictures, clips, footage or any part thereof, that may appear on any other websites/online platforms;
- IX. Pass an order directing the ISPs and intermediaries i.e., Defendant Nos. 36 to 67 to disclose the details of all servers being used by Defendant Nos. 1 to 30 and any other websites/mobile applications that are found to be indulging in the broadcast/ communicating to the public the Suit Images and Videos or clips thereof;
- X. In respect of Defendants that are currently not identified and/or are unknown as of date, an order may be passed whereby the said Defendant(s) be restrained in terms of prayers I and II stated above;
- XI. Any further orders as this Hon'ble Court deems fit and proper in the facts."



6. Vide order dated 06.03.2023, this Court had framed interim directions against Defendant Nos. 28 to 34 to duly attend to the 667 URLs as detailed in the plaint and for them to be taken down. Further, directions were also passed against Defendants Nos. 28 to 34 to commence the process of de-indexing in light of the disclosures made in the suit.

7. The Defendants appearing in the suit, jointly submit that the order dated 06.03.2023 has been duly complied to the extent of the URLs which were reflecting/made available on their respective platforms/search engines. They submit that if in future, any other URLs are discovered by the plaintiff which relate to the Suit Images and Videos and other identical videos, clips or still footage pertaining to the subject matter and if the same are brought to their attention by the plaintiff, they will take steps to take down the same. Consequently, a prayer is made by the said defendants for disposal of the present suit in the aforesaid terms.

8. Counsel for defendant nos. 28, 30, 31, 32 and 33 have made the following specific submission:

- 8.1. Counsel for Defendant No. 28 submits that the Plaintiff may notify URLs in accordance with the guidelines outlined in the following article: <https://support.reddithelp.com/hc/en-us/articles/360043513951-What-should-I-do-if-someone-has-shared-or-threatened-to-share-intimate-images-of-me-or-somebody-I-know>
- 8.2. Counsel for Defendant No. 30 submits that Plaintiff can notify URLs at its webform available at <https://help.x.com/en/forms/report-to-grievance-officer-india>
- 8.3. Counsel for Defendant No. 31/Google LLC submits that for expeditious processing of the Plaintiff's grievance, any subsequently discovered URLs



can be reported using the publicly accessible webforms provided by Google LLC for this purpose. The detailed mechanism for notifying URLs and all relevant webforms were duly communicated to the Plaintiff's counsel vide letter dated 5 March 2023, and include the webform at the URL https://support.google.com/legal/contact/lr_idmec.

- 8.4. Counsel for the Defendants No. 32 and 33 submit that the Plaintiff may notify any new URLs as indicated in paragraph 6 of this order at the dedicated webform of the Defendant No. 33, available at <https://www.microsoft.com/en-us/concern/bing>, by selecting the option to report '*Unexpected offensive or harmful content*' and thereafter indicating the option to report '*Nonconsensual Intimate Imagery (NCII AKA "revenge porn")*'. The Defendants No. 32 and 33 submit that upon a URL being de-indexed by the Defendant No. 33, the said content will automatically be de-indexed from the platform of the Defendant No. 32.
9. The plaintiff is also agreeable to the disposal of the suit on the said terms.
10. In view of the aforesaid submissions, the suit is hereby decreed with respect to the Defendant Nos. 1 to 12, 14 to 27 with a direction to take down any offending URLs as detailed in the Plaint, pertaining to the Suit Images and Videos, if not already removed, from their respective websites, in terms of order dated 06.03.2023.
11. The suit is also disposed of against Defendant Nos. 28 to 34, taking on record their statement that the order dated 06.03.2023 has been duly complied, to the extent of the URLs which were reflecting/made available on their respective platforms/search engines.
12. This Court further leaves it open to the Plaintiff to bring to the notice of the intermediaries any subsequently discovered URLs, which relate to the



Suit Images and Videos and other identical videos, clips or still footage pertaining to the subject matter. Any such request if made, shall be independently examined and evaluated by the intermediaries and if found to be forming part of the subject matter of the instant suit, further steps shall be taken by the intermediaries in accordance with the order dated 06.03.2023.

13. In addition, the Plaintiff is also granted liberty to communicate a copy of this order to any other third-party website(s) which may actually be hosting the Suit Images and Videos and other identical videos, clips or still footage pertaining to the subject matter along with the specified URLs on such website. Any such request if made, shall be independently examined and evaluated and if found to be forming part of the subject matter of the instant suit, such URLs shall be expeditiously taken down by the said website.

14. Defendant No. 35 is also bound by the statement made through his counsel, in order dated 06.03.2023, that all contents of which offence is taken was deleted when their relationship ended in 2015 and that he no longer has any material in his possession connected therewith. Further, he is also bound to extend all his assistance to take down the Suit Images and Videos, if so required, in the future.

15. The suit along with the pending I.A. shall stand decreed on the aforementioned terms.

16. In light of the aforesaid consent decree, a prayer is made by learned counsel for the Plaintiff for refund of the court fee that had been deposited. The Court has taken note of the provisions made in Order XXIII Rule 3 of the Code of Civil Procedure, 1908 and is of the considered opinion that the decree as passed against Defendant No. 1 to 12, 14 to 27 would clearly fall



within the ambit of Order XXIII Rule 3 of the CPC, having regard to Sections 16 and 16A of the Court Fees Act, 1870, and the judgment of the Supreme Court in High Court of **Judicature at Madras v. M.C. Subramaniam & Ors [(2021) 3 SCC 560]**. The plaintiff herein is, accordingly, held entitled to refund of Court fee.

17. The Registry is directed to draw up the requisite certificate for refund of the entire Court fee, within four (4) weeks from today.

MANMEET PRITAM SINGH ARORA, J
NOVEMBER 20, 2024/rhc/ms

Click here to check corrigendum, if any