

# M/S Zico Enviromental Solutions ... vs Siddharth Jain &Ors on 30 July, 2020

**Author: V. Kameswar Rao**

**Bench: V. Kameswar Rao**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 198/2020, IAs 6330/2020, 6331/2020, 6332/2020,  
6333/2020, 6334/2020, 6335/2020, 6336/2020 & 6337/2020

M/S ZICO ENVIROMENTAL SOLUTIONS PRIVATE LIMITED

&ORS

.....Plaintiffs

Through: Mr. Pardeep Dhingra, Adv.

with Mr. Varun Chandiok &

Mr. Nishant Kumar, Adv.

versus

SIDDHARTH JAIN &ORS

..... Defendants

Through: Ms. Pratiti Rungta, Adv. for

D-1

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 30.07.2020 This matter is being heard through video-conferencing. IA 6331/2020 (by plaintiffs under Order XXVI Rule 9 r/w Section 151 CPC) Mr. Pardeep seeks to withdraw the instant application for present. The same is dismissed as withdrawn for present.

IA 6332/2020 (by plaintiffs under Order VII Rule 14 r/w Section 151 CPC and also seeking exemption from For the reasons stated in the application, the same is allowed and plaintiffs are granted 30 days time from the resumption of the regular functioning of the Court to file additional documents. Further, plaintiffs are exempted from filing the originals / certified / typed copies of the uncertified / true / dim / illegible documents relied. Application is disposed of. IA 6333/2020 (by plaintiffs under Order II Rule 2 r/w Section 151 CPC) For the reasons stated in the application, liberty is granted to the plaintiffs to seek further relief in future, if so desired. Application is disposed of.

IA 6334/2020 (by plaintiffs under Order XXXVIII Rule 5 r/w Section 151 CPC) Issue notice to the defendants. Ms. Pratiti Rungta accepts notice for Defendant No.1. Let notice be issued for service on defendant Nos. 2 and 3, returnable on 19th August, 2020.

IA 6335/2020 (by plaintiffs seeking exemption from filing court fees) Subject to the applicant /

plaintiffs filing the necessary Court fee within 72 hrs from the date of resumption of regular functioning of the Court, as mandated in terms of Office Order dated April 04, 2020 issued by this Court, exemption from filing the requisite court fees is granted. Application is disposed of.

IA 6336/2020 (by plaintiffs seeking exemption from service) For the reasons stated in the application, the same is allowed and plaintiffs are exempted from effecting advance service of the suit upon the defendants. In any case as noted above Ms. Pratiti Rungta appears for Defendant No. 1. Application is disposed of.

IA 6337/2020 (by plaintiffs seeking direction to the Cyber Crime Cell, EOW, Delhi Police) Issue notice to the Director, Cyber Crime Cell, EOW, Delhi Police, returnable on 19th August, 2020.

CS(OS) 198/2020 Issue summons on the suit to the defendants. Ms. Pratiti Rungta accepts summons for defendant No. 1. Defendant No.1 shall file written statement within 30 days along with affidavit of admission and denial of documents filed by the plaintiff.

Replication shall be filed within 30 days of the receipt of the written statements / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendant No.1. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines.

Let summons be issued to defendant Nos. 2 and 3, returnable before Joint Registrar on 22nd October, 2020.

Summons shall state that the written statement shall be filed by the defendants within 30 days from the date of receipt of summons along with affidavit of admission and denial of documents filed by the plaintiff.

Replication shall be filed within 30 days of the receipt of the written statements / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendant Nos. 2 and 3. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines. IA 6330/2020 (by plaintiffs under Order XXXIX Rule 1 & 2 r/w Section 151 CPC)

1. This is an application filed by the plaintiffs with the following prayers:-

In the wake of the foregoing circumstances, it is humbly prayed that this Hon'ble Court be pleased to:

(a) Grant an ex-parte ad-interim order against the Defendants from approaching any of the Clients of the Plaintiffs;

(b) Grant an ex - parte ad interim injunction against Defendants from using the data stolen by Defendant no.1 from the offices of the Plaintiffs;

(c) Grant an ex - parte ad interim injunction against Defendants from using the Trade Mark "PureAir";

(d) Grant an ex - parte ad interim injunction against Defendants from operating www.ultrafi-eshindia.net using the Data of the Plaintiffs.

(e) Grant an ex - parte ad interim injunction against Defendants from operating or opening any Bank Account in name of Plaintiffs.

(f) Confirm the orders in prayers (a) to (e) after notice to the Defendants;

(g) Pass any other or further order(s) as this Hon'ble Court deems fit and expedient in the fitness of circumstances mentioned herein above."

2. It is the submission of Mr. Pardeep Dhingra, learned counsel for the plaintiffs that the plaintiffs are constrained to file the instant suit seeking injunction, declaration, recovery and rendition of accounts against the defendants, after detection of massive siphoning off funds. Entire data, stock, entire moveable assets has been illegally taken by the defendants in connivance with each other, carried forgery by altering the name of these data's, and then started selling the same products of plaintiffs at cheaper rates causing irreparable losses and damages to the plaintiffs, breaching the trust, which the defendants should have kept.

3. It is his submission that the defendant No.1 being the Director of the plaintiff no.1 Company was under moral as well as legal obligation to maintain the confidentiality of the resources and data kept under his supervision as a director of the plaintiff No.1. According to Mr. Pradeep, he has full access to sensitive data and information, the client details. However, defendant No. 1, in connivance with one the defendant no.2 has launched a competitive company/website www.ultrafreshindia.net, using such data and material as was entrusted to him and has been approaching clients of the plaintiff Nos. 2 and 4 with business proposals identical to what has been drafted and sent by the plaintiff No. 1 to its clients. In fact, he states that the website is showing the entire theft material belonging to the plaintiff No. 1 such as emails, Tag Line, Brand Name 'PureAir' and test certificates etc. According to him, the modus operandi of defendant No.1 is to direct transfer from Overdraft account to personal account, direct transfer of company money same day in his personal account upon receipts and realization of sales proceeds, inserting fake entries.

4. Ms. Pratiti Rungta, who appears for the defendant No.1, on advance notice states at the outset that a copy of the plaint has not been served on her. She is unaware of the contents and the allegations against the defendant No.1. She states that there is a history of litigation between the parties, inasmuch as defendant No.1 had earlier filed a writ petition against the company and its Directors including plaintiff No. 2 in this Court wherein she has sought directions against the company and the defendant No.2 to discharge their obligations under various statutory enactments. That apart, she states that the defendant No.1 has challenged his removal from the Director of the plaintiff No.1 before NCLT, which was dismissed for non prosecution of which restoration has been sought. She also states, a fresh petition has also been filed before the NCLT. She would state, as per

the information available with her, whatever has been stated by the learned counsel for the plaintiffs during the hearing today, are denied. That apart, she states, it is a matter of record that the plaintiff No.2 in league with her brother is running a separate company in the name of Obsecure Pvt. Ltd. dealing with the same product. She states, it appears that the defendant No.1 has no business relationship with defendant Nos.2 and 3 namely Dhruv Dinesh Trigunayat and Himanshu Sharma.

5. Mr. Pardeep states that the removal of defendant No.1 was in accordance with law and this fact has been updated in the records of Ministry of Corporate Affairs.

6. Notice, Ms. Pratiti Rungta accepts notice for defendant No.1. Let notice be issued to defendant Nos.2 and 3, returnable on 19th August, 2020.

7. Having noted the submissions made by the learned counsel for the plaintiffs and defendant No.1 and also perused the documents on which my attention has been drawn by Mr. Pardeep, it is directed that the defendant Nos. 2 and 3 shall not approach any of the clients of the plaintiffs as noted at pages 62 and 63 till the next date of hearing.

8. Provision of Order XXXIX Rule 3 CPC be complied within one week.

9. Let a copy of the plaint along with annexures be given to Ms. Pratiti Rungta, learned counsel for the defendant no.1 during the course of the day.

V. KAMESWAR RAO, J JULY 30, 2020/ak