

Makemytrip India Private Limited vs Wing In Travel Advisory Pvt. Ltd. & Ors on 2 September, 2020

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM)No.285/2020 & I.A. No. 6277/2020

MAKEMYTRIP INDIA PRIVATE LIMITED

.....PL

Through : Mr. Amit Sibal, Sr. Adv. with Mr.
Mohit Goel, Mr. Deepankar Mishra
Mr. Ambar Bhushan, Mr. Karmanya
Dev Sharma, Mr. Akshay Ajaykumar
and Mr. Siddhant Nath, Advs.

versus

WING IN TRAVEL ADVISORY PVT. LTD. & ORS.Defendant

Through : Mr. D.K. Mehta, Advocate for D-1
Mr. Arun Kathpalia, S
Mr. Aditya Gupta, Mr.
Kamath, Ms. Kaveri Ja
Aishwarya Kane, Advs.

Mr. Sandeep Sethi, Sr
Neel Mason, Ms. Ridhi
Ekta Sharma, Ms. Venn
Ms. R. Ramya, Advs. F

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 02.09.2020 [Court hearing convened via video-conferencing on account of COVID-19]
CS(COMM) 285/2020 & I.A. No. 6277/2020 [filed by the plaintiff under XXXIX Rule 1 and 2 read
with Section 151 of the CPC]

1. The record would show that I had heard Mr. Amit Sibal, learned senior counsel, who appears on behalf of the plaintiff, at length, on several dates. Today, Mr. Sibal had concluded his arguments, albeit, in the opening, prior to the lunch-break.

2. At that juncture, Mr. D.K. Mehta, who appears on behalf of defendant no. 1, commenced his arguments.

2.1 In the course of arguments, I had queried Mr. Mehta as to whether defendant no. 1 wanted to bid for, adopt or use the plaintiff's registered trademarks MakeMyTrip or MMT [with or without space] or any of its variants in pursuance of the Goggle Ad word programme. 2.2 Mr. Mehta said that he will obtain instructions, in that behalf, and convey the same to the Court in the post-lunch session.

3. The matter was taken up in the post-lunch session.

4. Mr. Mehta says he has obtained instructions, to the effect, that defendant no. 1 will not bid for, adopt or use the plaintiff's registered trademarks i.e. MakeMyTrip or MMT [with or without space] or any of its variants or any other mark which is deceptively similar to the plaintiff's marks.

5. Having heard Mr. Mehta, Mr. Sibal says that the plaintiff, in these circumstances, will not press for damages or costs against defendant no. 1 and that the suit can be decreed against defendant no. 1 in terms of the statement made by Mr. Mehta on behalf of the said defendant.

6. The statement of Mr. Mehta, as noted in paragraph 4 above, is taken on record.

6.1 The defendant no.1 will not be mulct with damages and costs.

7. Accordingly, the suit is decreed qua defendant no. 1 in the terms of the statement of Mr. Mehta as recorded paragraph 4 and what is stated in paragraph 6.1 above.

8. As a measure of abundant caution, Mr. Mehta is directed, for the sake of completion of record, to file an affidavit of the director of defendant no. 1, in terms of the statement made by him before me today. Let the needful be done before the next date of hearing. Copies of the said affidavit will be furnished, albeit electronically, to counsel for the plaintiff as also defendant no. 2 and 3.

9. The captioned application, insofar as defendant no. 1 is concerned, shall stand closed.

10. To my mind, given the manner in which the present suit has been framed, it cannot continue against defendant no. 2 and 3, without necessary changes being made in that behalf.

11. Given this circumstance, I put to Mr. Sibal and Mr. Mohit Goel, the advocate-on-record for the plaintiff, as to whether they want to close the present suit even qua defendant no. 2 and 3 with liberty to file a fresh suit, albeit, with necessary changes.

11.1 Mr. Goel says that he will revert with instructions.

12. Accordingly, at request, renotify the matter on 09.09.2020.

RAJIV SHAKDHER, J SEPTEMBER 02, 2020 [Aj/KK Click here to check corrigendum](#), if any