

Fashnear Technologies Private Limited vs Meesho Online Shopping Pvt. Ltd & Anr on 20 July, 2022

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS (COMM) 475/2022 & I.As. 10851-52/2022

FASHNEAR TECHNOLOGIES PRIVATE LIMITED Plaintiff

Through: Mr. Saikrishna Rajagopal, Mr.
Sidharth Chopra, Mr. Nitin Sharma,
Ms. Ramya Aggarwal, Mr. Angad
Makkar and Mr. Vivek Ayyagari,
Advocates. (M:9560744337,
8017571175)

versus

MEESHO ONLINE SHOPPING PVT. LTD & ANR. Defendant

Through: Ms. Hetu Arora Sethi, ASC, GNCTD
for Cyber Crime Unit with ACP
Raman Lamba and Inspector Suneet
Siddhu, IFSO/Spl. Ce
(M:8750450055)
Mr. Anurag Ahluwalia, CGSC for
UOI.
Mr. Moazzam Khan and Ms. Shweta
Sahu, Advocates for D-7.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 20.07.2022

1. The present suit has been filed by the Plaintiff seeking a permanent injunction to restrain Defendant No.1 from unauthorizedly using the Plaintiff's trademarks and/or copyright to defraud and dupe unsuspecting and gullible members of the general public in the name of the Plaintiff. The Plaintiff alleged that the Defendant through various means is approaching customers and informing them they have won a lottery prize. Thereafter, under the pretext of a fake lottery win, the rogue Defendants induce the gullible members of the general public to submit their bank account details and pay advance charges (by way of processing fees or other charges) to receive the prize amount or to avail free gifts such as cars, motor bikes, cash prize, electronics, etc.

2. Pursuant to the previous order dated 18th July, 2022, a status report has been submitted by Ms. Hetu Arora Sethi, Id. ASC, GNCTD appearing for the Delhi Police along with Mr. Raman Lamba, ACP, Cyber Crime Unit, Delhi Police, who is present in Court. A perusal of the said status report

shows that a detailed investigation is already underway and there are similar matters as well, where fake accounts have been created in the names of well-known business houses. As per the said status report, a Special Investigation Team ('SIT') has been constituted collectively in respect of four similar suits, by the Cyber Crime Unit, Delhi Police, which is referred to as Intelligence Fusion and Strategic Operations ('IFSO').

3. In the present suit, a FIR being FIR No.206/2022, P.S. Special Cell, Delhi dated 20th July, 2022 has also been registered under Sections 419/420 IPC and Sections 66C, 66D of the Information Technology Act, 2000. The status report reveals that there are bank accounts which are connected to each other, in a cascading manner, and orders are being issued for freezing of the said bank accounts. Let the investigation in this matter continue.

4. In the meantime, all the three fake online marketplaces with the infringing domain names being 'www.meeshogift.in', 'www.meeshogift.com' and 'www.meeshoonlineluckydraw.in' are restrained from operating and shall remain suspended or deactivated by the Domain Name Registrar ('DNR'). The Defendant No.19 - Department of Telecommunications (DoT) and Defendant No.20 - Ministry of Electronics and Information Technology (MEITY) shall issue blocking orders for the said three domain names, till further orders of this Court. All the Internet Service Providers (ISPs) shall also give effect to these directions, within 24 hours.

5. The contact details of the persons, who have registered domain names shall be handed over to Id. Counsel for the Plaintiff by the DNR - GoDaddy and other Registrars. Upon the details of the registrants of these domain names being made available to Id. Counsel for the Plaintiff, the same shall be supplied to Ms. Sethi and Mr. Lamba, so that they can carry out further investigation into the matter. All the concerned banks shall further ensure that the bank accounts connected to the said three domain names are frozen and blocked.

6. The DNRs will also inform the Plaintiff, if the said domain names have availed of any other services of the DNR such as cloud server, website development and hosting services. If so, the details used for making any payments such as credit card details, bank accounts details and any IP address of such persons who have registered the said domain names for availing the said services, shall also be provided to Id. Counsel for the Plaintiff. After collecting said details, the Id. Counsel for the Plaintiff shall forward the same to Ms. Sethi and Mr. Lamba.

7. The DNRs shall further ensure that no other fake websites/domain names containing the mark/name 'MEESHO' is registered by them. If the Plaintiff gives notice of any other infringing websites, the DNRs shall deactivate the said website/domain name, within 48 hours.

8. Id. Counsel for the Plaintiff shall file an affidavit giving the details of such websites after submitting the same to the DNR. If any domain names, which are brought to the notice of the DNR, are not deactivated, an explanation shall be provided by the DNR to the Plaintiff as to why the said domain names were not deactivated, and the Plaintiff shall be at liberty to move an application before the Court in this regard.

9. At this stage, Mr. Khan, Id. Counsel for the DNR - Godaddy.com LLC submits that the order relating to non-registration of any domain name containing the mark 'MEESHO' may not be passed, as it may block several genuine users from registering domain names. If the DNR is of the view that there are genuine domain names, an application may be moved.

10. This Court has perused the status report submitted by the Cyber Crime Unit and is convinced that the Plaintiff's well-known mark 'MEESHO' is now being used by fraudulent persons, who carry out illegal activities over the internet. The order directing the DNR not to register any domain names containing the mark 'MEESHO' is being passed under such extenuating circumstances, where the status report reveals that several vulnerable persons are being duped of huge sums of money by registering the domain names containing the mark 'MEESHO'. Several bank accounts are being publicised on such domain names/websites, and in one such account, total transaction of more than Rs.53 lakhs was found by the Cyber Crime Unit and an amount of only Rs.79/- was found to be remaining as balance amount. Thus, domain name registration is becoming a tool for such persons to collect monies through illegal means. It is under these circumstances that the present order has been passed in respect of the DNR.

11. It has also been brought to the notice of this Court that there are a number of cases before the Court where fraudulent domain names are being registered under the marks of well-known and established business houses and their brands. The said domain names are being used for hosting fraudulent websites with details of bank accounts under the garb of offering jobs, dealerships, franchisees, lucky draws, and various other illegal activities. The cases already before this Court, include the following:

S. No.	Cause Title	Case No.
1.	Himalaya Drug Company & Ors. v. CS Ashok Kumar & Ors. (COMM) 95/2021	
2.	Microsoft Corporation & Anr. v. CZone CS Solutions & Ors. (COMM)	
3.	Reliance Industries Ltd. & Anr. v. OLX India BV & Anr. CS (COMM)	
	Reliance Industries Ltd. & Anr. v. QUIKR India Pvt. Ltd. & CS (COMM)	
4.	Pfizer Inc. & Ors. v. Everest CS Pharmaceuticals Ltd. & Ors. (COMM)	
5.	Eli Lilly & Company & Ors. v. Bryan CS Pharmaceuticals (COMM) 439/2021	
6.	Hindustan Unilever Limited v. Nitin CS Kumar Singh & Ors. (COMM) 399/2021	

7. Dabur India Limited v. Ashok Kumar & CS
Ors. (COMM)
8. Godrej Properties Ltd. v. Ashok Kumar CS
& Anr. (COMM)
9. HT Media Ltd. v. Pooja Sharma & CS
Ors. (COMM)
26/2022
10. Indiamart Intermesh Ltd. v. Mr. Akash CS
Verma & Ors. (COMM)
255/2020
11. Shoppers Stop Limited v. M/s. CS
Shopperstop & Ors. (COMM)
12. Gujarat Cooperative Milk Marketing CS
Federation Ltd. & Anr. v. Amul- (COMM)
13. Kamdhenu Limited v. Raghunath CS
Virdharam Bishnoi & Ors. (COMM)

12. In addition, ld. Counsels appearing before this Court today have informed the Court that there are other similar matters, pending before different benches of the IPD. The details of the said matters are as under:

S. Cause Title No.	Case No.	Curre NDOH
1. Colgate Palmolive Company & CS Anr. v. NIXI and Anr. (COMM) 193/2019		order Before Chawl NDOH

2. Microsoft Corporation & Anr. v. CS PC Patchers Technology Private (COMM)	Before Ld. Kler
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NDOH - 03/08

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| 3. | Microsoft Corporation & Anr. v. CS
Tech Heracles OPC Private (COMM) | Before HMJ J
Singh |
| 4. | Microsoft Corporation & Anr. v. CS
Vacation Rental Services Limited (COMM) | NDOH - 13/09
Before HMJ J
Singh |
| 5. | ITC Limited v. Ashok Kumar & CS
Ors. (COMM)
373/2020 | NDOH - 12/09
(Before JR)
Before HMJ J
Singh (trans
from HMJ San
Sachdeva) |
| 6. | Mont Blanc Simplo v. CS
MontblancIndia.com & Ors. (COMM) | NDOH - 21/07
Before HMJ J
Singh |
| 7. | Tata Sons Private Limited & CS
Anr. v. M/s. Electro (COMM)
International & Ors. 293/2021 | NDOH - 25/07
Before Ld
Tyagita Sing |
| 8. | Jockey International Inc. v. CS
www.Jockeyfranchise.com & (COMM) | NDOH - 22/07
Before Ld. J
Malik Grover |
| 9. | Mother Dairy Fruit & Vegetable CS
Pvt. Ltd. v. Kumar Prahlad & (COMM) | NDOH-06/09/2
Before HMJ J
Singh |
| 10. | Pfizer Inc & Ors. v. Everest CS
Pharmaceuticals Ltd. & Ors. (COMM) | NDOH -
Before
Singh |
| 11. | Dharampal Satypal Ltd. v. CS
Rajnigandha Dist. Pvt. Ltd. & (COMM) | NDOH -
Before
Singh |
| 12. | Amazon Seller Services Pvt. Ltd. CS
& Anr. v. Amazonbuys.in & (COMM) | NDOH -
Before
Singh |
| 13. | Hindustan Unilever Ltd. & Anr. CS
v. unileverl.in & Ors. (COMM) | NDOH -
Before
Singh |

14. Bajaj Finance Ltd. & Anr. v. CS
Niko Das & Ors. (COMM)

NDOH -
Before
Singh

NDOH -

13. Subject to the orders of Hon'ble the Judge-in-Charge (Original Side), all the above matters be listed before the same Bench, as the investigation needs to be consolidated and comprehensive directions may be required to be issued to the police authorities, cyber cells, the various banks, National Payment Corporation of India, RBI, MHA etc.

14. The Cyber Crime Unit, Special Cell, Delhi shall continue the investigation in these matters. Let a further status report be submitted in respect of the said investigation, on the next date of hearing.

15. It is also made clear that in order to coordinate in obtaining data relating to various bank accounts and other details of the persons, who opened the fraudulent bank accounts for collecting the money from the customers, the Cyber Crime Unit is free to approach National Payments Corporation of India, as also, the concerned banks.

16. List on 3rd August, 2022, along with similar matters as tabulated above at 2:30 p.m. PRATHIBA M. SINGH, J.

JULY 20, 2022/dk/ad