

# Sporta Technologies Pvt. Ltd. And Anr vs Roberta Gaming Pvt. Ltd. And Anr on 10 November, 2021

**Author: Sanjeev Narula**

**Bench: Sanjeev Narula**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.S. (COMM.) 560/2021

SPORTA TECHNOLOGIES PVT. LTD. AND ANR. .... Plaintiffs

Through: Ms. Shwetasree Majumder, Mr.  
Prithvi Singh and Mr. Rohan Krishna  
Seth, Advocates.

versus

ROBERTA GAMING PVT. LTD. AND ANR.

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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10.11.2021

[VIA HYBRID MODE]

I.A. 14562/2021 (for exemption from filing originals, clear copies and documents with proper margins)

1. The Plaintiffs shall file better copies of the exempted documents, compliant with the practice rules, before the next date of hearing.

2. The application stands disposed of.

I.A. 14561/2021 (under Section 12A of the Commercial Courts Act, 2015 read with Section 151 of the Code of Civil Procedure, 1908 seeking exemption from attempting pre-institution mediation)

3. Having regard to the facts of the present case, exemption from attempting pre-institution mediation is allowed.

4. The application stands disposed of.

I.A. 14560/2021 (under Order XI Rule 1(4) read with Section 151 of CPC, 1908, seeking leave to file additional documents)

5. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.

6. The Plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly in compliance with the provisions of the Commercial Courts Act, 2015.

7. Accordingly, the application stands disposed of.

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8. Let the plaint be registered as a suit.

9. Upon filing of process fee, issue summons to the Defendants by all permissible modes. The 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 the written statement, the Defendants shall also file an affidavit of admission/ denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

10. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/ denial of documents of the Defendants, be filed by the Plaintiffs, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

11. List before the Joint Registrar for marking of exhibits on 10 th January, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

12. List before the Court on 21st March, 2022 for framing of issues thereafter.

I.A. 14559/2021 (under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908)

13. The Plaintiffs have filed the accompanying suit seeking a permanent injunction restraining the infringement of its registered trademarks, passing off, rendition of accounts, damages, delivery up, etc. The case of the Plaintiffs, as set out in the Plaint, is as follows:

i. Plaintiff No. 1 - Sporta Technologies Pvt. Ltd. - is an Indian company engaged in the business of an online fantasy sports platform under the name 'Dream11' since 2012. Plaintiff No.1 is a wholly owned subsidiary of Plaintiff No. 2 - Dream Sports Inc. - which is a U.S. based company.

ii. Plaintiff No. 1 is the registrant of the domain name 'www.dream11.com' since 2008, and launched its online gaming platform Dream11 in 2012.

iii. Plaintiff has been the official fantasy sports partner of the International Council of Cricket (ICC), The Campeonato Nacional de Liga de Primera Division (La Liga), Vivo Indian Premier League (IPL), KFC Big Bash League (BBL), Hero Caribbean Premier League (CPL) T20, National Basketball Association (NBA), Vivo Pro Kabaddi League (PKL), International Hockey Federation (FIH), Hero Indian Super League (ISL) and T20 Mumbai. The Plaintiff has also acquired Official partner rights of Board of Control for Cricket in India (BCCI), international and domestic matches since 2019.

iv. The trademark 'Dream11' is registered in India in various logo forms in several classes. The word mark 'Dream11 Champions' has also been registered. The Plaintiffs' claim to have various brand ambassadors including celebrities such as Mr. M.S. Dhoni, Mr. R. Ashwin, Mr. Jasprit Bumrah, Mr. Rishab Pant, Mr. AB de Villiers, Mr. Andre Russel, Mr. Faf Du Plessis, Mr. Kane Williamson, etc. v. That Plaintiffs No. 1 and 2 are proprietors of several registered trademarks, which have been enumerated in the plaint as follows:

14. Ms. Shwetasree Majumder, counsel for the Plaintiffs, submits as follows:

i. In the month of September 2021, the Plaintiffs came across the impugned websites- "www.fandream11.in" of Defendant No. 1 and "www.fandream11.com" of Defendant No. 2.

ii. A perusal of Defendant No. 1's website indicates that not only are they using the mark Fandream11, but they are also unauthorisedly using IPL team trademarks and logos - as well images and photographs of the Plaintiff's exclusive brand ambassadors (being Shreyas Iyer, Rohit Sharma and Mahendra Singh Dhoni) in an unauthorised manner. Further, Defendant No. 1's website claims that "Fandream11 is a product of Roberta Gaming Private Limited, established in 2021"

which appears to have been incorporated on 14 th December 2020. iii. The mala-fides of Defendant No. 1 are apparent as they are not a fantasy sports platform at all, and, in fact, are facilitating betting, which is illegal under various statutes, including but not limited to The Public Gambling Act, 1867. Further, Defendant No. 1 is also providing an unlawful betting/gambling platform and providing betting odds for a number of matches across a number of sports such as cricket, football, etc. When a user clicks on the tabs - "Cricket", "Olympics" or "Offers"

on the top right corner - they are re-directed to the website -

"www.uwin55.in".

iv. Thus, by using the Plaintiffs' well-known trademarks, Defendant No. 1 is making the public associate the Plaintiffs with prohibited activities, thereby tarnishing their reputation and image, and consequently, their trademark.

v. Ms. Majumder states that in order to restrict Defendant No. 1, a legal notice dated 29th September, 2021 was also issued, however, there has been no response to the same. In the investigation, the Plaintiffs have also come across the website 'www.fandream11.com' of Defendant No. 2 which is dressed up as a legitimate fantasy sports operator, albeit under the same trademark "Fandream11" and the logo . A perusal of the same revealed that "Fandream11" is a creation of Defendant No. 2 - which was incorporated on 7th May, 2021.

vi. The adoption of "Fandream11" infringes the Plaintiffs' trademarks viz.

"Dream11". Defendants have added the generic term 'FAN' to indicate an association with the Plaintiffs. The addition of this prefix does not absolve the Defendants of any liability arising out of the infringement of Plaintiffs' trademark.

15. In view of the above, the Plaintiffs have established a prima facie case in their favour. The balance of convenience also lies in favour of the Plaintiffs and an irreparable loss would be caused to them, in case an ex-parte injunction is not granted. Accordingly, till the next date of hearing, the Defendants, their directors, representatives and/ or other(s) acting for/ on their behalf are restrained from:

i. Using the mark "Fandream11" or any deceptively similar variant thereof, as trademark, tradename, domain name or on social media, e-mail addresses or in any other manner, which amounts to infringement of the Plaintiffs' "Dream11" trademark as listed in the instant application; and ii. Using the mark "Fandream11", or any deceptively similar variant thereof, as a trademark, tradename, domain name or on social media, e-mail addresses or in any other manner which amounts to 'passing off the services and businesses of Defendants as that of the Plaintiffs.

16. Further, GoDaddy.com LLC is directed to suspend the domain name registrations of the Defendants, (viz. - www.fandream11.com and www.fandream11.in).

17. The provisions of Order XXXIX, Rule 3 of the Code of Civil Procedure, 1908 to be complied with within a period of one week from today.

SANJEEV NARULA, J NOVEMBER 10, 2021 nd