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

+ CS(COMM) 1053/2024 & I.A. Nos. 46360/2024, 46361/2024,
46362/2024, 46363/2024, 46364/2024 & 46365/2024

DR DEVI PRASAD SHETTY & ANR.Plaintiffs

Through: Mr. Saikrishna Rajagopal with
Ms. Shilpa Gupta, Ms. Deepika
Pokharia and Mr. Naman Tandon,
Advocates.
(M): 9811289656
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versus

MEDICINE ME & ORS.Defendants

Through: Mr. Abhishek Kumar, Advocate for
defendant no. 5.
(M): 9891138990
Email: advocate.abhishekkumar@gmail.com
Ms. Ekta Sharma with Ms. Pragya
Jain and Ms. Surabhi Katare,
Advocates for defendant no. 10.
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CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
28.11.2024

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I.A. 46365/2024 (Exemption from filing original and certified copies of documents)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiffs, seeking exemption



from filing original documents, legal proceedings certificates/certified copies/translated copies of annexures/documents/documents, with improper margins and seeking permission to file dim documents.

2. Exemption is granted, subject to all just exceptions.

3. Plaintiffs shall file legible, clear, and translated copies of the documents, on which the plaintiffs may seek to place reliance, before the next date of hearing.

4. Accordingly, the present application is disposed of.

I.A. 46363/2024 (Exemption from instituting Pre-Institution Mediation)

5. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgment of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi*, 2023 SCC OnLine SC 1382, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption from attempting Pre-Institution Mediation, is granted.

7. Accordingly, the application stands disposed of.

I.A. 46362/2024 (Application seeking leave to file additional documents)

8. This is an application under Order XI Rule 1(4) read with Section 151 CPC, as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

9. The plaintiffs, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.



10. The application is disposed of, with the aforesaid directions.

I.A. 46361/2024 (Exemption from advance service to the defendant nos. 1 to 3)

11. The present is an application under Section 151 CPC, seeking exemption from advance service to the defendant nos. 1 to 3.

12. The plaintiffs seek urgent interim relief, therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendant, is granted.

13. For the reasons stated in the application, the same is allowed and disposed of.

I.A. No. 46364/2024 (Application seeking leave to file the videos on pen drive)

14. The present application has been filed under Section 151 CPC seeking leave to file videos in a pen drive.

15. In terms of Rule 24 of Chapter-XI of the Delhi High Court (Original Side) Rules, 2018, it is made clear that electronic records can be received in CD/DVD/Medium, encrypted with a hash value. The said Rule is extracted as below:

*“24. **Reception of electronic evidence** - A party seeking to tender any electronic record shall do so in a CD/ DVD/ Medium, encrypted with a hash value, the details of which shall be disclosed in a separate memorandum, signed by the party in the form of an affidavit. This will be tendered along with the encrypted CD/ DVD/ Medium in the Registry. The electronic record in the encrypted CD/ DVD/ Medium will be uploaded on the server of the Court by the Computer Section and kept in an electronic folder which shall be labeled with the cause title, case number and the date of document uploaded on the server. Thereafter, the encrypted CD/ DVD/ Medium will be returned to the party on the condition that it shall be produced at the time of admission/denial of the documents and as and when directed by the Court/ Registrar. The memorandum disclosing the hash value shall be*



separately kept by the Registry on the file. The compliance with this rule will not be construed as dispensing with the compliance with any other law for the time being in force including Section 65B of the Indian Evidence Act, 1872.”

16. Accordingly, Registry may receive electronic record in a DVD, so long as it is encrypted with a hash value or in any other non-editable format. The DVD, containing the videos, be placed in the electronic record, of the present suit.

17. Accordingly, the present application is allowed and the plaintiff is allowed to place the documents in a DVD.

18. With the aforesaid directions, the present application is disposed of.

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19. Let the plaint be registered as suit.

20. Issue summons.

21. Summons is accepted by learned counsels appearing for defendant nos. 5 and 10.

22. Upon filing of the process fee, issue summons to the other defendants by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

23. Liberty is given to the plaintiff to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of the defendant, be filed by the plaintiff, without which, the replication shall not be taken on record. If any of the parties wish to seek



inspection of the documents, the same shall be sought and given within the timelines.

24. List before the Joint Registrar (Judicial) for marking of exhibits, on 22nd January, 2025.

25. List before the Court on 15th April, 2025.

I.A. 46360/2024 (Application under Order XXXIX Rules 1 and 2 CPC)

26. The present suit has been filed seeking permanent injunction restraining infringement of personality and publicity rights of plaintiff no. 1, as well as for restraining infringement of the registered trademarks of plaintiff no. 2, misappropriation of goodwill, unfair trade practices, dilution, damages, delivery-up etc.

27. Learned counsel appearing for the plaintiffs submits that the plaintiff no. 1, i.e., Dr. Devi Prasad Shetty, is a renowned cardiac surgeon, philanthropist and chairman of the plaintiff no. 2, Narayana Hrudayalaya Ltd., a public company incorporated in the year 2000, having its registered office at No. 258/A, Bommasandra Industrial Area Anekal. T.Q. Bangalore, L Area, Karnataka, India, 562158.

28. It is submitted that the present suit is being instituted against several known and unknown defendants seeking to restrain them from misusing and exploiting the name, likeness, image, photos, videos and/or infringing any other personality and publicity rights of the plaintiff no. 1; infringing the registered trademarks “NARAYANA HEALTH”, “NARAYANA



HRUDAYALAYA”, etc. of plaintiff no. 2, and from claiming any association and/or connection with the plaintiffs.



29. It is submitted that owing to his significant contributions to the field of affordable healthcare, the plaintiff no. 1 has been awarded several awards, accolades and recognition.

30. It is further submitted that the plaintiff no. 1 also holds a US Patent No.10,109,377 dated 23rd October, 2018, registered as inventor- “System and Method for Facilitating Delivery of Patient-Care” – ‘A computer implemented method for facilitating delivery of patient-care in adherence with a standard of care clinical protocol is described’.

31. It is submitted that in the year 2000, the plaintiff no. 1 also founded College of Nursing, Asia Heart Foundation along with Rabindranath Tagore International Institute of Cardiac Sciences (RTIICS), multi-super-speciality hospital in Kolkata.

32. It is further submitted that the plaintiff no. 1 was also appointed as head of Karnataka’s Covid Task force for the ‘third wave’ of the pandemic. Owing his remarkable achievements, the plaintiff no. 1 has become a well-known personality not only in India, but across the world. The plaintiff no. 1 has regularly appeared in various interviews and talk shows, delivered lectures and featured in several news articles. Further, it is submitted that an episode of a popular Netflix’s documentary series ‘The Surgeon’s Cut’, also featured plaintiff no. 1 showing his treatment of patients prioritizing low-cost and affordable healthcare.

33. It is further submitted that the aforesaid efforts, contributions and accolades, demonstrate the immense popularity of the plaintiff no. 1. Plaintiff no.1 is deeply admired and respected as a leading figure in its field of healthcare, all throughout the nation and across the world. Therefore, he submits that any reference to plaintiff no. 1 and/or misuse of his personality



rights in relation to the impugned content, shall have a deep impact and influence on the public at large.

34. It is submitted that the plaintiff no. 2 commenced its operations in 2000 with the establishment of Narayana Hrudayalaya [later rebranded as Narayana Institute of Cardiac Sciences (NICS)], a multi- specialty hospital with specialization in Cardiac Healthcare at Bommasandra, Bangalore. NICS is a JCI and NABH accredited Super Specialty flagship cardiac hospital of the plaintiff no. 2, equipped with 16 dedicated Cardiac Operation Theatres, wherein, Doctors (including the plaintiff no. 1) perform over 30 surgeries every day and 6 Digital Cath Labs, of which, one is a Hybrid, capable of performing both interventional cardiac procedures as well as complex heart surgeries. Further, NICS holds the world's largest pediatric cardiac ICU with 80 Beds.

35. It is submitted that plaintiff no. 2 adopted the mark 'Narayana Hrudayalaya' with its incorporation in the year 2000 and the mark 'Narayana Health' in April, 2001. Over the years the said plaintiff also adopted various device marks, including, but not limited to



. He submits that by the virtue of continuous and uninterrupted user, widespread promotion and exceptional healthcare services, the said marks have acquired formidable goodwill and reputation. Apart from such common law rights, the said plaintiff has also obtained statutory rights by registering several marks across various classes.



36. It is further submitted that the aforesaid marks along with the word mark 'Narayana Health' have been regularly and uninterruptedly used and marketed across the country and abroad by the plaintiffs resulting in widespread consumer recognition and knowledge. The members of public and trade recognize the said marks and associate them solely with the plaintiffs. Thus, any unauthorized use of the plaintiff no. 2's marks or any deceptive variant thereof, in relation to any class of goods or services whatsoever, shall result in infringement and/or passing off.

37. It is submitted that the plaintiff no. 2's marks signifies and connotes the plaintiffs and no one else. Pertinently, a simple search on the internet for the term "Narayana Health" directs solely to the services of the plaintiffs. The reputation, recognition, fame and goodwill of the plaintiffs, is quite expansive, and the public indubitably identifies and associates the said trademarks exclusively with the plaintiffs. The vast network of hospitals and clinics being operated under the plaintiff no. 2's marks across the country has further resulted in *wide* public recognition.

38. It is further submitted that the defendant nos. 1 and 2 are unidentifiable third parties operating Facebook pages, viz. Medicine Me <<https://www.facebook.com/profile.php?id=61555851951123>> and QDD Milano Nightlife TV <<https://www.facebook.com/people/ODD-Milano-Nightlife-TV/100072105331610/>> respectively, and misusing the name/likeness/ photos/videos of the plaintiff no. 1, by creating and sharing fake and misleading videos on the said social media platform.

39. It is submitted that a bare perusal of the aforesaid videos/articles/pages show that the same have been created/uploaded/circulated by the defendants for the sole purpose of



deriving illicit commercial gains. The defendant nos. 1 to 8 and 13 have, unauthorizedly and deliberately used, imitated, misappropriated and exploited the personality rights of the plaintiff no. 1 and intellectual property rights of the plaintiff no. 2. It is submitted that the plaintiffs have not given any rights/license to the arrayed defendants to use the said personality rights and intellectual property rights.

40. It is further submitted that the impugned content utilizing the personality traits, such as name/images/voice/ likeness of plaintiff no. 1 pose significant threat to the unsuspecting members of public who may be misled into purchasing the purported health products promoted/ marketed using plaintiff no. 1's persona or be misled into believing the unsubstantiated and unverified health tips being misrepresented as originating from the plaintiff no. 1. Further, any adverse consequences caused by the virtue of such impugned content, shall also result in irreparable harm to the hard-earned goodwill of the plaintiffs.

41. It is submitted that the misappropriation of any attribute of plaintiff's personality rights without his express permission especially for a commercial purpose is liable to be restrained not only for violation of personality rights, but also on account of dilution and tarnishment and erosion of plaintiff no. 1's goodwill.

42. It is further submitted that the *mala fide* intent of the defendant nos. 1 to 8 and 13 to deceive the members of the public, is evident not only from the unauthorised use of plaintiff no. 1's image, videos and likeness, but also from the fact that excerpts from plaintiff no. 1's prior videos have been deliberately distorted and doctored into such infringing content to suggest an association between the plaintiff no. 1 and the said defendants.



43. It is submitted that plaintiff no. 1 is a 'celebrity' in his own right and has a valid and enforceable personality right. As such, the plaintiff no. 1 satisfies the dual test of personality rights, viz. having a valid and enforceable personality right on account of being a well-known reputed personality and the same is clearly identifiable in the infringing content uploaded by the defendant nos. 1 to 8 and 13 on their social media accounts. Hence, the said defendants' unauthorized usage of the plaintiff no. 1's image, likeness, videos, etc. for commercial gain and unjust enrichment, not only at the cost of the plaintiff no. 1, but more importantly to the detriment of the members of the public, is in violation of the plaintiff no. 1's personality rights under law.

44. In the above circumstances, the plaintiffs have demonstrated a *prima facie* case for grant of injunction and, in case, no *ex parte ad interim* injunction is granted, the plaintiffs will suffer an irreparable loss. Further, balance of convenience also lies in favour of the plaintiffs, and against the defendants.

45. Accordingly, till the next date of hearing, the following directions are issued:-

I. The defendant nos. 1 to 8 and 13, their associates, partners, directors, principal officers, family members, servants, agents, or anyone acting for and on their behalf from directly or indirectly, are restrained from misusing, misappropriating or exploiting the name, likeness, image, photos, videos, or any other aspects of plaintiff no. 1's persona, which are solely and exclusively associated and identified with him for any commercial and/or personal gain, in any manner whatsoever, without the plaintiff no. 1's express written authorization, including, through the use of any existing or



future technology such as Artificial Intelligence, deep fake technology in any medium, format or platform, resulting in infringement/passing off of personality and publicity rights of the plaintiff no. 1.

II. Defendant Nos. 1 to 8 and 13, their associates, partners, directors, principal officers, family members, servants, agents, or anyone acting for and on their behalf, are restrained from infringing the registered trademarks of plaintiff no. 2 such as

NARAYANA HRUDAYALAYA/ 



III. Directions are issued to defendant no. 9 to block/take down the contents of defendant nos. 1 to 3 and also disclose complete details such as name, address, email, phone numbers, etc., of defendant nos. 1 to 3 available with it, in accordance with law, of the following URLs:

- i. <https://www.facebook.com/61555851951123/videos/36182256121043>
- ii. <https://www.facebook.com/100072105331610/videos/1162588551302701>
- iii. https://www.facebook.com/61560680894911/videos/443901908464939/?extid=WA-UNK-UNK-UNK-AN_GK0T-GK1C&mibextid=2Rb1fB:



IV. Defendant no. 10 i.e., Google LLC is directed to block/ take down the impugned content/channel of defendant nos. 4 to 8 and also disclose complete details such as name, address, email, phone numbers, etc., of defendant nos. 4 to 8 available with it, in accordance with law, of the following URLs:

- i. <https://www.youtube.com/@SudinAsbei>
- ii. https://www.youtube.com/watch?v=0PaCrCln_AQ
- iii. <https://www.youtube.com/watch?v=waX6xIg30q4>
- iv. <https://www.youtube.com/watch?v=YvRWwWUWrC>
[c](#)
- v. <https://www.youtube.com/watch?v=gwdt-OG1Sw0;>
<https://www.youtube.com/watch?v=NLpaA2UuNCc>

V. In case, the plaintiffs during the pendency of the suit discovers any more false, fake and infringing videos not originating from or associated with the plaintiffs, the plaintiff shall be at liberty to approach defendant nos. 9 and 10 requesting them to block/take down any such post/video/text or any material, which is published on its platforms or utilizing its platforms. In case, defendant nos. 9 and 10 raise any doubt, the plaintiff shall be at liberty to approach this Court, for appropriate orders.

VI. Defendant nos. 11 and 12 are directed to issue necessary notifications/directions to all telecom and internet service providers to block/suspend the websites, as identified during the course of the present suit, that are found to be violating the rights of the plaintiffs.



46. Issue notice to the defendants.
47. Notice is accepted by learned counsels appearing for defendant nos. 5 and 10.
48. Learned counsel appearing for defendant no. 5 submits that the defendant no. 5 is ready to remove the incriminating videos and shall not upload the same.
49. The aforesaid statement is noted, and the defendant no. 5 is held bound by the same.
50. Issue notice to the defendant by all permissible modes, upon filing of the Process Fee, returnable on the next date of hearing.
51. Let reply be filed within a period of four weeks.
52. Rejoinder thereto, if any, be filed within two weeks, thereafter.
53. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week, from today.
54. List before the Court on 15th April, 2025

MINI PUSHKARNA, J

NOVEMBER 28, 2024

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