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

+ **CS(COMM) 9/2024**

ASSOCIATED BROADCASTING COMPANY LIMITED

..... Plaintiff

Through: Mr. Harsh Kaushik, Ms. Anushree,
Mr. Rahul Dhote, Mr. Shwetank
Tripathi, Mr. Harsh Prakash, Mr.
Sachin, Mr. Mohit Bangwal & Mr.
Kunal Gupta, Advs.

versus

GOOGLE LLC & ORS.

..... Defendants

Through: Mr. Aditya Gupta, Adv. for D-1

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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05.01.2024

I.A. 261/2024 (seeking leave to file additional documents)

1. By this application under Order XI Rule 1(4), Code of Civil Procedure, 1908 (“CPC”) as applicable to commercial suits under the Commercial Courts Act, 2015, plaintiff seeks time to place on record additional documents.

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

3. Application stands disposed of accordingly.

I.A. 262/2024 (for placing Pen Drive on record)

1. By this application under Section 151 of the CPC plaintiff seeks permission to place on record a pen drive containing certain video footage



of the live events as covered in plaintiff's news programs & licensed videos.

2. The application is allowed. Let the same be placed on record with copy to the counsel for defendant no.1 and to other defendants, as and when they enter appearance.

3. Application stands disposed of accordingly.

I.A. 263/2024 (exemption from filing originals/certified copies etc.)

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

2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.

3. Application stands disposed of accordingly.

I.A. 264/2024 (exemption from pre-litigation mediation)

1. This application has been filed seeking exemption from pre-litigation mediation, as the same will defeat the very purpose of the relief claimed by the plaintiff.

2. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in *Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.*, FAO (COMM) 128/2021, exemption from attempting pre institution mediation is allowed.

3. Accordingly, the application stands disposed of.

I.A. 260/2024 (application under Order XXXIX Rule 1&2 of the CPC)

1. This application has been moved under Order 39 Rule 1 & 2 CPC seeking directions against the defendants, as prayed for in the said application. The context in which the said plaint has been filed is as under.



2. Plaintiff is in the business of media and broadcasting services. It operates several television channels and digital platforms in India under the name and style of “TV9”. As part of their digital footprint, the plaintiff carried their digital content, *inter alia*, on YouTube, which is platform operated by defendant no.1. (Google LLC). Through these digital channels, plaintiff uploads various news videos on a bouquet of subjects.

3. Between 2020 -2023, plaintiff carried certain news programs on the said digital channels relating to various events of natural disasters *viz.*, the Laura Hurricane in the United States, the ongoing Israel-Hamas war, heavy snowfall in the United States, New York floods, and the 2023 Chinese Balloon incident in the United States etc. For the said purpose, the plaintiff used some on-ground footage from material available online.

4. In December, 2023, plaintiff received strike notices by defendant nos. 2 to 5 regarding various videos which had been uploaded on the said digital channels, on the basis that the videos uploaded by the plaintiff contained footage of which defendant nos. 2 to 5 own copyright. Plaintiff responded to these strike notices and various communications were exchanged between them and defendant nos. 2 to 5, and their legal representatives. Defendant no.1 removed the said videos of the plaintiff from YouTube, as per the plaintiff.

5. Subsequently, the plaintiff learnt that defendant nos. 2 to 5 have initiated proceedings for copyright infringement in the Courts in United States.

6. The plaintiff has approached this Court, in these circumstances, against an imminent threat of their digital channel being removed from YouTube, potentially on account of a decision which may be taken by the Courts in United States or, otherwise, by defendant no.1. Any removal of



the said digital channel from YouTube, as per the plaintiff, will naturally cause huge damage to them, considering they are in the business of news dissemination.

7. Counsel for defendant no.1, who appears on advance notice, states that, presently, plaintiff's digital channel on YouTube has not been removed, although some infringing videos have been removed by defendant no.1 and some by plaintiff themselves.

8. In these facts and circumstances, in view of this Court, there is no urgency to pass protective orders in favour of the plaintiff, at this stage.

9. Accordingly, issue notice the remaining defendant nos. 2 to 5, returnable before the Joint Registrar on 5th March, 2024. Affidavit of service along with proof thereof be placed on record before the next date of hearing.

10. Reply, if any, be filed by the defendants, including defendant no.1, within four weeks with advance copy to learned counsel for the plaintiff, who may file rejoinder thereto, if any, before the next date of hearing.

11. List before Court on 19th March 2024.

ANISH DAYAL, J

JANUARY 5, 2024/sm