

Misc DJ. No. 775/2023  
Panasonic Life Solutions Pvt. Ltd..  
Vs.  
Dinesh Kumar & Ors.

04.11.2023

Present: Sh. Rishi Bansal, Ld. Counsel for plaintiff.

One application for early hearing moved on behalf of plaintiff.

Another application under Order XXXIX Rule 2A read with Section 151 CPC filed against the defendant no. 1 stating that defendant no. 1 Sh. Dinesh Kumar in violation of courts order dated 30.08.2022 while disposing of the application for interim injunction is still selling, soliciting, manufacturing the goods bearing impugned trademark of the plaintiff openly on their premises. The screen shots of the defendant premises dated 26.10.2023 also filed along with application. It is stated that the defendant no. 1 / contemnor i.e. Dinesh Kumar has no regard for the court and is making mockery of the injunction order and, therefore, the court should proceed under Order XXXIX Rule 2A read with Section 151 CPC against the defendant no. 1 and attach all the movable and immovable properties of defendant no. 1 and also summon him to explain his conduct. It is further stated that defendant no. 1 be detained in civil imprisonment and his property be attached and be sold and the plaintiff be compensated out of the proceeds of the said property.

Along with this application, copy of inventory at site no.2 (stated to be already seized) and photograph dated 26.10.2023 are filed as Annexure -A. One affidavit of investigator Sh. Sumit Kumar is also filed who has stated that he had visited the premises of defendant no. 1 at 4/1888, Rama Block, Gali No.3, Bholanath Nagar, Shahdara, Delhi-110032 and 4/1622, Mahabir Block, Bholanath Nagar, Shahdara, Delhi and had found numerous quantities of impugned products/goods bearing the impugned mark/label Anchor.

Another application under XXVI Rule 9 CPC and application under Order XXXIX Rule 7 CPC for appointment of Local Commissioner also filed. It is stated that defendant no. 1 has stock and large quantities of impugned goods bearing impugned trademark / labels at the premises i.e. 4/1888, Rama Block, Gali No.3, Bholanath Nagar, Shahdara, Delhi-110032 and 4/1622, Mahabir Block, Bholanath Nagar, Shahdara, Delhi. It is stated that the plaintiff will suffer irreparable loss and injury in terms of the business and reputation and the consumers will also suffer as they will be cheated and deceived that such goods are coming from genuine sources. It is stated that the impugned goods are counterfeit and of inferior quality and therefore, the hard earned goodwill of the plaintiff under its said trademark will be eroded. Plaintiff has further stated that they apprehend that on being served with the notice of the contempt application, the defendant might move the stock of the goods bearing impugned trademark and may deny their involvement in the illegal trade activities and may further temper with books and accounts etc. It is further stated that in order to obviate the said possibility, it is necessary that a Local Commissioner should visit both the address i.e. 4/1888, Rama Block,

Gali No.3, Bholanath Nagar, Shahdara, Delhi-110032 and 4/1622, Mahabir Block, Bholanath Nagar, Shahdara, Delhi and to take into custody all the impugned goods including other incriminating materials like electrical switches & accessories, sockets, way switches, switchgear & protection devices, dimmers, regulators, small fan regulators, wires and cables, lamps, lamp holders and luminaries and fans, frames, switch bottoms, button holder, pins, switch plate and other allied / related products and packaging material, boxes, stickers, cutouts, accessories, machineries and allied and cognate items bearing impugned trademark/labels.

The prayer has been made that Local Commissioner be appointed

(a) to visit the address(es) of the defendant no. 1 as mentioned in memo of parties and take in his custody all the incriminating materials like electrical switches and accessories, sockets, way switches, switchgear & protection devices, dimmers, regulators, small fan regulators, wires and cables, lamps, lamp holders and luminaries and fans, frames, switch bottoms, button holder, pins, switch plate and other allied / related products and packaging material, boxes, stickers, cutouts, accessories, machineries and allied / related products and packaging material, boxes, stickers, cutouts, accessories, machineries and allied and cognate items bearing impuned trademark/labels or any other trademarks identical with or deceptively similar to the plaintiff's said trademarks/labels ANCHOR; and to further seized the machines, moulds and plates being in used to make the impugned goods and packaging.

(b) To also visit other premises at the identification of the plaintiff where

the impugned activities are being carried on by or on behalf of the defendants or where the impugned goods / materials are expected to be found;

(c) To sign the account books including ledgers, cash register, stock register, invoices, books etc. of the defendants;

(d) To break upon the locks, if required, for taking possession of the impugned goods;

(e) To seek police assistance from the local police station, if required, for execution of the commission;

Heard perused the record.

Perusal of the record shows that vide interim injunction order dated 30.08.2022, the defendant was restrained from using the impugned mark in any manner whatsoever. The relief portion of the order is reproduced hereinbelow

*“.....Accordingly, an ex parte ad interim injunction is granted in favour of the plaintiff and against the defendants and the defendants by themselves as also through their individual proprietor/partners, agents, representatives, distributors, assigns, heirs, successors, stockists and all others acting for and on behalf are restrained from using, selling, soliciting, manufacturing, marketing, enquiring, importing, exporting, displaying, advertising physically or through social networking websites or through its or by any other mode or manner dealing in or using the impugned trademarks/label ANCHOR or any*

*other work/mark which may be identical with and / or deceptively similar word mark to the plaintiff's said trademark / label and "ANCHOR" in relation to electrical switches & accessories, sockets, wall switches, switchgear & protection devices, dimmers, regulators, small fan regulators, wires and cables, lamps, lamp holders and luminaries and fans, frames, switch bottoms, button holder, pins, switch plate and other allied / related products and packaging material, boxes, stickers, cutouts, accessories, machineries and allied and cognate items from doing any other acts or deeds amounting to or likely to:*

- i. Infringement of plaintiff's aforesaid copyright in its ANCHOR trademark/label.*
  - ii. Passing off and violation of the plaintiff's right in the the plaintiff's said trademark / labels and violating the plaintiff's common have rights therein;*
  - iii. Violation of plaintiff's proprietary rights in its trade name i.e. PANASONIC LIFE SOLUTIONS INDIA PVT. LTD.*
  - iv. Passing off and enabling others to pass off their goods and business as that of the plaintiff till the next date of hearing.*
- Provisions under Order 39 Rule 3 CPC be complied with within a week of execution of commission...."*

The plaintiff has filed screen shots of defendant premises dated 26.10.2023 showing that defendant no. 1 is still continuing the impugned activity, in violation of the court order.

Issue notice of all the above applications (except the application for appointment of Local Commissioner) and also an application under Section 151 CPC read with Section 11 Rule 5 of Commercial Courts Act, 2015 to the defendant no. 1 for 17.11.2023.

Meanwhile, the application for appointment of Local Commissioner is allowed and Ms. Shikha Garg, Chamber No. G-702, Karkardooma Courts, Delhi, Mob. 8800162184 is appointed as Local Commissioner who shall visit at both the premises of the **defendant no. 1 i.e. 4/1888, Rama Block, Gali No.3, Bholanath Nagar, Shahdara, Delhi-110032 and 4/1622, Mahabir Block, Bholanath Nagar, Shahdara, Delhi.**

(1) The Local Commissioner shall visit the aforesaid properties and shall seize all the incriminating materials like electrical switches, accessories, sockets, way switches, switchgear & protection devices, dimmers, regulators, small fan regulators, wires and cables, lamps, lamp holders and luminaries and fans, frames, switch bottoms, button holder, pins, switch plate and other allied / related products and packaging material, boxes, stickers, cutouts, accessories, machineries and allied and cognate items bearing impugned trademark/labels. “ANCHOR” identical or deceptively similar to that of plaintiff's said trademark/label “ANCHOR”.

(2) The Local Commissioner shall visit other premises at the identification of plaintiff in the locality where the impugned activities are

being carried on by or on behalf of defendant or where the impugned goods / material are expected to be found.

(3) The Local Commissioner shall sign books of accounts/ledger and cash registers, stock register, invoices, day books etc. of the defendants.

(4) The Local Commissioner shall be at liberty to break open the lock if required for taking possession of the impugned goods. He may also seek assistance of the police if the defendant does not cooperate in the execution of the commission or he feels the necessarily to break open the locks of the door of premises.

(5) The Local Commissioner shall prepare the inventory of the seized goods and take the photographs of the seized goods. The Local Commissioner is also permitted to take the videograph of the proceedings and goods seized by him.

(6) The Local Commissioner shall seal all the seized goods and hand over the same to the defendants/their representatives on superdari after getting an undertaking that the sealed material will be produced before the court as and when directed.

(7) The Local Commissioner shall also be entitled to seek police assistance or protection of the local police station, if so required, for the purpose of execution of the order of this court. The SHO of the concerned police station is directed to provide necessary assistance to the Local Commissioner, if sought for.

Plaintiff shall serve a copy of this order upon the defendant, at the time of execution of the proceedings.

Fee of Local Commissioner is fixed at Rs.65,000/-, in addition to out of pocket and miscellaneous expenses, which shall be paid in advance by the plaintiff.

Report of Local Commissioner shall be filed before the next date of hearing.

This order shall not be uploaded on the website of this court till execution of the Commission by the Local Commissioner.

Copy of the order be given dasti to the plaintiff as well as to the Local Commissioner.

**(Kiran Bansal)**  
**District Judge, Commercial Court-02**  
**Shahdara, Karkardooma**  
**Delhi/04.11.2023**