

IN THE COURT OF THE DISTRICT JUDGE, LUCKNOW.

R.S. No. 115 of 2012.

श्री अरवि कुमार गुप्ता Petitioner  
Versus

अरवि कुमार गुप्ता Opposite-party

22/8/12 Petition under section- of the Arbitration & Conciliation Act,  
1996 is being put with Munsarim's report for order.

Copy Register

ORDER

I have heard learned counsel for the plaintiffs and perused report of the Munsarim, as also provisions, contained in sections-55 and 62 of Copyright Act, 1957, in order to be satisfied as to jurisdiction of this court.



According to Section-62 of Copyright Act, 1957, the District Court having jurisdiction, shall try and decide the suit relating to the Copyright Act.

The plaintiffs have filed the instant suit against the defendants for permanent injunction restraining them from infringement of Copyright in the literary work of plaintiffs in their Law Reports & from selling, distributing or otherwise making available to public such Law Reports etc. etc.

Register it as a Regular Suit, Issue summons to the defendants fixing 14.09.2012 for written-statement and framing issues.

District Judge,  
Lucknow

**Contd.:-**

Also heard learned counsel for the plaintiffs on application moved under section-55 of the Copyright Act, 1957, read with Order-39 Rules-1 & 2 of the Code of Civil Procedure, 1908.

Through the aforesaid application, the plaintiffs prayed that the defendants, their assigns and business franchisees, licencees, distributors, agents etc. be restrained from infringing the copyrights in the literary work of the plaintiffs in their law report "Supreme court Cases" (SCC) and from selling, distributing or otherwise making available to the public, either as CD Roms or through their websites on the internet or by any other means, copies of its law report and data bases which infringe the copyrights of the plaintiff in and to the law reports titled Supreme Court Cases (SCC) during the pendency the above suit.

While praying for ad interim injunction, the learned counsel for the plaintiff drew my attention to comparative charts giving illustration running from pages 16 to 35 of the application/affidavit. It is submitted that Editorial Notes of the Law-Books, journals and On-Line Journals of the plaintiffs, publishing SCC, exactly tallied with the Editorial Notes of Defendants' On-Line Journals.

I have gone through the entire illustration and found, at this stage, prima facie, that Editorial Notes of the plaintiffs of Law Journals are exactly tallying with those of defendants' On-Line Journals.

It is further submitted that Hon'ble the Supreme Court in the Case of **Eastern Book Company-versus-D.B. Madak, (2008) 1 SCC-I** has acknowledged the copyright of plaintiffs' Journals and Hon'ble the Apex Court has been pleased to lay-down the test of minimum creativity for recognizing copyright in any of the inputs made by the plaintiffs in their copy edited text.

In support of the prayer for issuance of ex-parte ad interim injunction, reliance is placed by the plaintiff on the case of **T.V.**



**Venugopal-versus-Ushodaya Enterprises Limited and another, (2011) 4 Supreme Court Cases 85**, wherein it is held by Hon'ble the Supreme Court that permitting appellant to carry on his business with trade name "Eenadu" would amount to putting seal of approval on clandestine conduct of the appellant. It is further held that the appellant deliberately misrepresented having potentiality of creating confusion and deception in public at large.

Nextly, reliance is placed on the case of **Midas H7giene Industries (P) Ltd. and another -versus- Sudhir Bhatia and others, (2004) 3 Supreme Court Cases 90**, wherein it is held by Hon'ble the Supreme Court that the law on the subject is well settled. In cases of infringement either of trade mark or of copyright, normally, an injunction must follow. Mere delay in bringing action is not sufficient to defeat grant of injunction in such cases. The grant of injunction also becomes necessary, if it prima facie appears that the adoption of the mark was itself dishonest.


After having heard learned counsel for the plaintiffs and perusal of the record I think that issuance of notice of the application of temporary injunction is essential to be issued to the defendants/opposite-parties. But, at the same time, I am also of the view that passing of an interim injunction order is justifiable at this stage because prima facie case lies in favour of the plaintiffs and factors of balance of convenience and irreparable loss also exist in their favour .

In view of this, issue notice of the application under section-55 of the Copyright Act, 1957, read with Order-39 Rules-1 & 2 of the Code of Civil Procedure, 1908 to the opposite-parties, for the date fixed, for objection, if any, and disposal.

Meanwhile, the defendants, their assigns and business franchisees, licencees, distributors, agents etc. are restrained from infringing the copyrights in the literary work of the plaintiffs in their law report "Supreme court Cases" (SCC) and from selling, distributing or otherwise making available to the public, either as



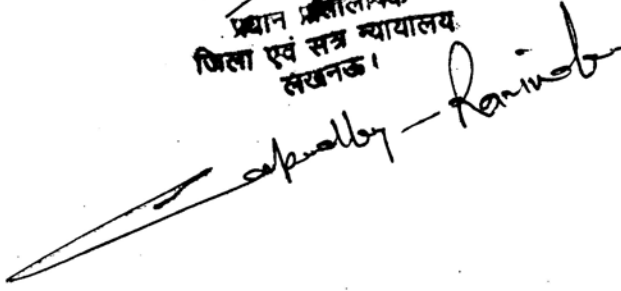
CD Roms or through their websites on the internet or by any other means, copies of its law report and data bases which infringe the copyrights of the plaintiffs in and to the law reports titled Supreme Court Cases (SCC).

  
District Judge,  
Lucknow  
22.08.2012

39 Rule 3  
Comp. Cell  
Art. 124A

प्रमाणित-प्रतिलिपि

प्रधान प्रतिलिपिक  
जिला एवं सत्र न्यायालय  
लखनऊ।

  
Ranveer