

BY EMAIL/DoT WEBSITE

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001
(Data Services Cell)

No. 813-07/LM-24/2022-DS-II

Dated:23-06-2022

To,

All Internet Service Licensees'

Subject: CS (Comm) No. 389 of 2022; The Capital Group Companies, Inc. v. Ashok Kumar & Ors. Before Hon'ble Delhi High Court.

In continuation to Department of Telecommunications even no. letters dated 06.06.2022 and 16.06.2022; kindly find the enclosed Hon'ble Delhi High Court order dated 01st June, 2022 in the subject matter court case C.S. (Comm) No. 389 of 2022 along with **Second list** of additionally identified 1 website (www.capitalgroupfund.info), as provided by the counsel for the plaintiff. DoT is defendant No. 4 in the case.

2. Hon'ble Court vide order dated 01st June, 2022 has, inter alia, directed that:

23. The defendant nos. 4 and 5 are also directed to direct the telecom service providers and the internet service providers to block access to the websites www.capitalgroups.in and www.capitalgroupfinancialfund.in and such other similar/mirror websites upon intimation by the plaintiff within 48 working hours. It is again clarified that in case defendant nos. 4 and 5 find the request of the plaintiff not to be acceptable for any reason, it shall inform the plaintiff of the same, on which, it shall be open to the plaintiff to file an appropriate application before this Court

3. Accordingly, in view of the above, all the Internet Service licensees are hereby notified/instructed to take immediate necessary action for compliance of the court order dated 01st June, 2022 with respect to **Second list** of additionally identified 1 website www.capitalgroupfund.info immediately.

Encl: A/A

Director (DS-II)
Tel: 011-2303 6860
Email: dirds2-dot@nic.in

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

+ CS(COMM) 389/2022

THE CAPITAL GROUP COMPANIES, INC Plaintiff

Through: Mr.Anirudh Bakhru, Mr.Raghav Vig,
Mr.Himanshu Deora, Mr.Naqeeb
Nawab & Mr.Yashwardhan Singh,
Advs.

versus

ASHOK KUMAR & ORS. Defendants

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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01.06.2022

I.A. 9071/2022 (Exemption)

1. Allowed, subject to all just exceptions.

I.A. 9070/2022

2. This is an application filed on behalf of the plaintiff seeking permission to file additional documents at a later stage.

3. The plaintiff may file the additional documents strictly in accordance with the law.

4. The application stands disposed of.

I.A. 9072/2022

5. For the reasons stated in the application, the same is allowed.

I.A. 9073/2022

6. The learned counsel for the plaintiff submits that though the Court Fees has been deposited, receipt/certificate thereof is awaited. For the reasons stated, the time for deposit of the Court Fees is enlarged by a period

of two weeks from today.

CS(COMM) 389/2022

7. Let the plaint be registered as a suit.

8. Issue summons presently to the defendant nos. 3 to 12, to be served through all permitted modes, including electronically, upon plaintiff taking requisite steps, returnable on 21st September, 2022.

9. The summons to the defendant(s) shall indicate that the written statement(s) to the plaint shall be positively filed within a period of 30 days weeks from the date of receipt of summons. Along with the written statement(s), the defendant(s) shall also file the affidavit(s) of admission/denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.

10. Liberty is given to the plaintiff to file replication(s) within a period of 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the plaintiff, the affidavit(s) of admission/denial of documents of the defendant(s) be filed by the plaintiff, without which the replication(s) 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.


I.A. 9069/2022



11. Issue notice. On the plaintiff taking steps, let notice be served on the defendant nos. 3 to 12 through all permissible modes, including electronically, returnable on 21st September, 2022.

12. Let reply to the application be filed by the defendant nos. 3 to 12 within a period of four weeks of receipt of notice. Rejoinder thereto, if any, be filed within three weeks thereafter.

13. It is the case of the plaintiff that the plaintiff is a leading American financial services and investment management company, which started as early as in the year 1931. It ranks amongst the world's oldest and largest investment management organizations, with assets worth trillion under management. It serves individual investors, financial intermediaries and institutions around the world through a broad range of products and services, including more than 40 mutual funds, private equity, investment services, and a range of other offerings for institutional clients and individual investors globally.

14. It has adopted the mark "CAPITAL GROUP" as a corporate name as

well as trademark in the year 1966 and a 'Frames Logo' depicted as 

and  in 2001. It commenced use of the mark  on 30.04.2013.

The plaintiff has given details of various marks registered in its favour in paragraph 14 of the plaint.

15. The plaintiff is aggrieved of registration of and use of domain names and social media accounts bearing the trademarks of the plaintiff "CAPITAL GROUP" as a predominant part. It is also aggrieved by use of its 'Frames Logo' by unknown entities, who are arrayed as defendant no. 1 and 2 in the present suit. The plaintiff has also placed on record a purported Power of Attorney falsely claimed by defendant no. 2 to have been executed in its favour by the plaintiff group. The learned counsel for the plaintiff submits that no such Power of Attorney has been executed by the plaintiff.

16. The plaintiff further asserts that the impugned websites are being used

for alluring customers into what it claims to be a ponzi scheme/ pyramid scheme and these websites, upon collecting money are thereafter disbanded, thereby leading to loss to general consumers. This also adversely affects the reputation and goodwill of the plaintiff's inasmuch as these consumers are investing keeping in view the goodwill and reputation of the plaintiff and being misguided that these websites are owned and/or operated by the plaintiff group.

17. The plaintiff further claims that on becoming aware of such websites, its representative registered himself at www.capitalgroupfund.in, one of the impugned website, and made several transactions. While the money was deducted and list of transaction is visible, the amount was never credited to the profile of the plaintiff's representative created on the said website.

18. The plaintiff further contends that from several videos available on the YouTube, it can be seen that the beneficiary on the rogue Mobile Application is defendant no. 11 and the payment platform is operated by the defendant no. 10 and that the concerned bank is defendant no. 11.

19. The plaintiff further asserts that the phone number mentioned on the impugned websites and mobile application is operated by the defendant no.6.

20. The plaintiff submits that on its complaint, three websites, being www.capitalgroupfund.in, www.surl.li/bypze and www.capitalgroupfinancialfund.com had been taken down by the domain name registry, that is, defendant no. 3. Social media accounts of defendant nos. 1 and 2 have also been taken down by the Instagram and Facebook, however, immediately thereafter new ones keep springing up as the intent is only to deceive gullible public.

21. In my view, the plaintiff has been able to make out a good *prima facie* case in its favour and, the balance convenience is also in favour of the plaintiff and against the defendant. The actions of the defendant no. 1 and 2 appear to be intended to deceive general public. The plaintiff and the general public is therefore, likely to suffer grave irreparable harm in case the ad-interim injunction as prayed for is not granted.

22. Accordingly, the defendant no. 3 is directed to disclose information about the registrants of the websites, that is, www.capitalgroupfund.in, www.surl.li/bypze, www.capitalgroups.in, and www.capitalgroupfinancialfund.in and to suspend the impugned websites www.capitalgroups.in and www.capitalgroupfinancialfund.in and/or similar/mirror websites that may be identified by the plaintiff and informed to the defendant no. 3, within 48 working hours of the communication of the present order/such intimation by the plaintiff. In case the defendant no. 3 has any objection on suspension of any website pointed out by the plaintiff, it shall inform the plaintiff of the same within the above time, on which, the plaintiff shall be entitled to move an appropriate application in this Court seeking appropriate relief against such website(s).

23. The defendant nos. 4 and 5 are also directed to direct the telecom service providers and the internet service providers to block access to the websites www.capitalgroups.in and www.capitalgroupfinancialfund.in and such other similar/mirror websites upon intimation by the plaintiff within 48 working hours. It is again clarified that in case defendant nos. 4 and 5 find the request of the plaintiff not to be acceptable for any reason, it shall inform the plaintiff of the same, on which, it shall be open to the plaintiff to file an appropriate application before this Court.

24. The plaintiff further asserts that through the website www.capitalgroupfund.in, the applicants/visitors were directed to a mobile application which had customer care number as under:

“+91 7381305287”

, which further directed the visitors to deposit the money.

25. On the said mobile application, the visitor was asked to deposit money into the schemes of the defendant nos. 1 and 2 offered by the above websites.

26. Defendant no. 6 is, accordingly, directed to disclose the customer details of the said number, on an affidavit.

27. The defendant no. 7 is directed to disclose the information about the owner of the Facebook page, that is, www.facebook.com/permalink.php?story_fbid=110200908263989&id=110196221597791 and Instagram accounts under usernames- “_capital_group_” and “_imtiyaz_ali_prince_”.

28. The defendant no. 8 is also directed to suspend the YouTube Channels “Financial Funds Capital Group” (<http://www.youtube.com/channel/UCnnAyiMlhvZElv7nj0ekMQ>) and “Capital Group Financial Funds” (http://www.youtube.com/channel/UCKjGGP_FhR6C3e3mvqbK11g) and other videos promoting and/or advertising the impugned website and mobile application identified by the plaintiff.

29. The defendant no. 9 shall disclose information about the owner of UPI ID- “BHARATPE09903727868@yesbankltd” and “BHARATPE09903724086@yesbankltd” and/or “Abi Technologies” and “Shakthivignesh D” in a sealed cover before this Court. Similar direction is

also issued against defendant no. 10.

30. Defendant no. 12 is directed to suspend any customer account which is identical or deceptively similar to the trademark of the plaintiff “CAPITAL ONE” or Frames Logo mentioned hereinabove.

31. Compliance with Order XXXIX Rule 3 the Code of Civil Procedure, 1908, be made within three days from today.

32. List on 21st September, 2022.

NAVIN CHAWLA, J

JUNE 1, 2022/rv/U.

**CS (Comm) No. 389 of 2022; The Capital Group Companies, Inc. v. Ashok Kumar & Ors.
Before Hon'ble Delhi High Court. (Second additional list)**

1. www.capitalgroupfund.info