

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-20/2022-DS-II

Dated:10-05-2022

To,

All Internet Service Licensees'

Subject: CS (Comm) No. 216 of 2022; Save Life Foundation V/s Mr. Aslam Shaikh & Ors. Before Hon'ble Delhi High Court.

Kindly find the enclosed Hon'ble Delhi High Court order dated 06th April, 2022 in the subject matter court case C.S. (Comm) No. 216 of 2022 with respect to blocking of website <https://savelifefoundation.org.in>. DoT is defendant No. 3 in the case.

2. Hon'ble Court in order dated 06th April, 2022 has, inter alia, directed that:

34. Accordingly, Defendants No. 1 & 2, their agents, associates, servants and representatives and all other persons including any body corporate on their behalf, are restrained from infringing the Plaintiff's registered trademark (device) SaveLIFE by using the infringing marks 'Save LIFE' and 'Save LIFE Foundation' and/or any other trademarks deceptively similar thereto in relation to the services of the Plaintiff.

36. Defendants No. 3, 4 & 5 are directed to block access to the domain name of the infringing website <https://savelifefoundation.org.in>.

3. Accordingly, in view of the above, all the Internet Service licensees are hereby notified to take immediate necessary action for compliance of the court order dated 06th April, 2022 with respect to website <https://savelifefoundation.org.in> immediately.

Encl: A/A

Director (DS-II)
Tel: 011-2303 6860
Email: dir2-dot@nic.in

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

+ CS(COMM) 216/2022

SAVELIFE FOUNDATION Plaintiff

Through: Ms. Swathi Sukumar, Mr. Naveen
Nagarjuna and Ms. Tarini Sahai, Advocates

versus

MR. ASLAM SHAIKH & ORS. Defendants

Through: Mr. Arjun Mahajan, Senior Panel
Counsel for D-3 & 4

Mr. Mohammad Kamran and Mr. Brijesh
Ujjainwal, Advocates for D-5

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **06.04.2022**

IA No.5346/2022 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

I.A. 5347/2022 (under Section 151 CPC)

3. Since there is an urgency in the matter and the matter is being heard today, Plaintiff is exempted from serving Defendants No.1 and 2 with advance notice.
4. For the reasons stated in the application, the same is allowed and disposed of.

I.A. 5345/2022 [S. 12(A) of the Commercial Courts, Commercial Division and r/w S. 151 CPC seeking exemption from pre-litigation mediation]

5. For the reasons stated in the application, the requirement of pre-institution mediation is dispensed with.

6. Accordingly, the application is allowed and disposed of.

CS(COMM) 216/2022

7. Let plaint be registered as a suit.

8. Issue summons.

9. Mr. Arjun Mahajan, Senior Panel Counsel enters appearance on behalf of Defendants No.3 and 4.

10. Mr. Mohammad Kamran, learned counsel enters appearance on behalf of Defendant No.5.

11. Written statements be filed by Defendants No. 3, 4 and 5 within 30 days from today alongwith affidavits of admission/denial of the documents of the Plaintiff.

12. Replications thereto be filed by the Plaintiff within 15 days of the receipt of the written statements alongwith an affidavit of admission/denial of the documents filed by Defendants No. 3, 4 and 5.

13. Upon filing of process fee, issue summons to the remaining Defendants, through all permissible modes, returnable on 14.07.2022. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the receipt of summons. Along with the written statement, Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff.

14. Replication be filed by the Plaintiff within 15 days of the receipt of the written statement. Along with the replication, an affidavit of admission/denial of documents filed by the Defendants, shall be filed by the Plaintiff.

15. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar on 14.07.2022.

17. List before Court on 26.08.2022.

I.A. 5344/2022 (U/O 39 Rules 1 and 2 read with Section 151 CPC)

18. Issue notice to the Defendants.

19. Mr. Arjun Mahajan, Senior Panel Counsel enters appearance on behalf of Defendants No.3 and 4.


20. Mr. Mohammad Kamran, learned counsel enters appearance on behalf of Defendant No.5.

21. Replies be filed by Defendants No.3, 4 and 5 within four weeks from today. Rejoinders, if any, be filed within two weeks thereafter.


22. Upon steps being taken, notice be issued to the remaining Defendants, through all permissible modes, returnable on 26.08.2022.


23. It is averred in the plaint that Plaintiff is an independent non-profit organization committed to saving lives on roads in India and across the world since 2008. It is staffed with close to 50 full-time staff including inter-disciplinary engineers, urban designers, trauma care experts, public-policy specialists and doctorates in road safety. Plaintiff combines innovative on-ground interventions with advocacy for stronger national level policies to create a sustainable impact in the area of road safety and emergency medical care.

24. The details of the awards and recognitions received by the Plaintiff are mentioned in paragraph 8 of the plaint.

25. It is pleaded that Plaintiff has conceived and adopted the trademarks 'SaveLIFE', 'SaveLIFE Foundation' and  since its inception in the year 2008 and is well-known and has extensive cross-border reputation.

26. It is averred that Plaintiff is also the owner and registrant of the website <https://savelifefoundation.org> which is accessible across the Worldwide Web. The details of the platforms through which the Plaintiff has its digital media presence are mentioned in paragraph 11 of the plaint.


27. It is averred that Plaintiff is a registered proprietor of the distinctive device mark , the details of which are mentioned in paragraph 12 of the plaint in addition to common law rights over the trademark 'SaveLIFE' and its variants. The words Save LIFE forms the name of the Plaintiff and the trademark 'SaveLIFE' is an integral and essential part of the Plaintiff's trademark.

28. It is averred that over the years, the Plaintiff's trademarks 'SaveLIFE', 'SaveLIFE Foundation' and  have been consistently associated with excellent work and social impact and the trademark holds immense goodwill and reputation. Plaintiff's service has received extensive publicity as a result of having been regularly featured in articles appearing in various newspapers, popular magazines all across the world including India.

29. It is averred that Defendant No.1 appears to be the operator of the domain name <https://savelifefoundation.org.in>, which is identical to the Plaintiff's domain name <https://savelifefoundation.org>. It appears that Defendant No. 1 is the founder of Defendant No. 2, Save Life Foundation(s). Defendant No. 2 on its website, claims to be registered under the Society Registration Act, 1860 Government of Maharashtra, Thane but the website "<https://charity.maharashtra.gov.in/en-us/know-your-trust-en-US>" that provides details of Trust/Society, do not reflect the details of Defendant No. 2.


30. It is pleaded that on 06.12.2021, a well-wisher of the Plaintiff informed the Plaintiff that Defendant No. 2 has been fraudulently approaching the general public asking for funds for road accident victims on highways and for children suffering from cancer, under the name of 'Save LIFE'. It is averred that Defendant No. 2 runs a fraudulent website <https://savelifefoundation.org.in>. The well-wisher informed the Plaintiff that about 20-30 tele callers were approaching the general public, using the name of the Plaintiff, asking for funds and issuing invoices.


31. It is pleaded that on enquiry, it came to the knowledge of the Plaintiff that Defendants No. 1 & 2 have been fraudulently approaching the general public asking for funds for road accident victims on highways and for children suffering from cancer, under the identical and infringing mark 'Save LIFE'. Defendant No. 2 has adopted the name 'Save LIFE Foundation(s)' which is a copy of the Plaintiff's proprietary name 'SaveLIFE Foundation'. Upon further enquiry, Plaintiff has also learnt that the general public, who are familiar with the Plaintiff's well-known mark are being deceived into thinking that the services of Defendants No. 1 & 2 are associated with the Plaintiff. Plaintiff has also come across the receipts issued to customers on the receipt of the payments/contributions made by them to Defendant No. 2 organisation. The receipts bear the infringing mark and amount to a blatant infringement of the Plaintiff's statutory rights as a proprietor of a registered trademark under Section 29 of The Trade Marks Act, 1999.

32. It is pleaded that the actions of Defendants No. 1 and 2 amount to direct infringement of the Plaintiff's registered trademark  and passing off of the trademarks 'SaveLIFE' & 'SaveLIFE Foundation'. The

Defendants' conduct indicates that they wish to ride on the longstanding goodwill and reputation of the Plaintiff, for unlawful monetary gain.

33. Having heard learned counsel for the Plaintiff, this Court is of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte ad-interim* injunction. Balance of convenience lies in favour of the Plaintiff and Plaintiff is likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

34. Accordingly, Defendants No. 1 & 2, their agents, associates, servants and representatives and all other persons including any body corporate on their behalf, are restrained from infringing the Plaintiff's registered trademark (device)  by using the infringing marks 'Save LIFE' and 'Save LIFE Foundation' and/or any other trademarks deceptively similar thereto in relation to the services of the Plaintiff.

35. Defendants No. 1 & 2, their agents, associates, servants and representatives and all other persons including any body corporate on their behalf are restrained from passing off the Plaintiff's trademarks 'SaveLIFE', 'SaveLIFE Foundation' and its registered trademark  by using the infringing marks 'Save LIFE' and 'Save LIFE Foundation' and / or any other trademarks deceptively similar thereto in relation to the services of the Plaintiff.

36. Defendants No. 3, 4 & 5 are directed to block access to the domain name of the infringing website <https://savelifefoundation.org.in>.

37. Provisions of Order 39 Rule 3 CPC shall be complied with by the Plaintiff, within a period of two weeks from today.

JYOTI SINGH, J

APRIL 06, 2022/yg