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

+ CS (COMM) 282/2020

I.A. 6215/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A. 6216/2020 (exemption/extension for filing court fee)

I.A. 6217/2020 (exemption)

I.A. 6218/2020 (exemption from filing notarised affidavits)

NEETU SINGH & ANR .....Plaintiff

Represented by: Ms.Rajeshwari H., Advocate with  
Mr.Swapnil Gaur & Ms.Nupur  
Goswami, Advocates

versus

TELEGRAM FZ LLC & ANR. .... Defendant

Represented by: Mr.Amit Sibal, Sr. Advocate with  
Ms.Raveena Rai, Mr.Sanjeev Kapoor,  
Ms.Anushka Sharda, Ms.Smiriti Nair,  
Mr.Vinay Tripathi, Mr.Madhav  
Chitale, Mr.Aishwary Vikram and  
Mr.Saksham Dhingra, Advocates for  
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**CORAM:**  
**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

% **28.07.2020**

The hearing has been conducted through Video Conferencing.

I.A. 6217/2020 (for exemption)

1. Exemption is allowed subject to all just exceptions.
2. Application is disposed of.

I.A. 6216/2020 (exemption/extension for filing court fee)

I.A. 6218/2020 (exemption from filing notarised affidavits)

1. By these two applications, the plaintiffs seek exemption from filing the Court fees as also the notarized affidavits in support of the plaint and applications, statement of truth as also the certificates under Section 65-B of the Indian Evidence Act at this stage.

2. Plaintiffs are exempted from filing Court fees and notarized affidavits at this stage. The same be filed within one week of the resumption of the normal Court functioning.

2. Applications are disposed of.

CS (COMM) 282/2020

1. Plaint be registered as a suit.

2. Issue summons in the suit to the defendants.

3. Ms.Raveena Rai, Advocate enters appearance on behalf of the defendant No. 1 and accepts summons in the suit. Defendant No. 2 in the suit is John Doe and thus, no further summon is required to be issued to defendant No. 2 at this stage.

4. Written statement in the suit be filed within thirty days. Replication within three weeks thereafter. Affidavits of admission-denial be filed by the parties along with the pleadings.

5. List the suit on 23<sup>rd</sup> September, 2020.

I.A. 6215/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Issue notice in the application to the defendants.

2. Learned counsel appearing on behalf of the defendant No. 1 accepts notice.

3. By the present suit, the plaintiffs seek a permanent injunction restraining the defendants from infringing and using the copyright of the

plaintiffs subsisting in the videos of the lectures delivered, books authored, notes and other study materials prepared by the plaintiff No. 1 and damages etc.

4. Case of the plaintiff No. 1 is that she is a renowned author of many books designed to train students aspiring to take SSC, Bank PO, CDS, NDA and other competitive examinations. Plaintiff No. 1 delivers the lectures and coaches students appearing for these examinations and thus, plaintiff No. 1 founded plaintiff No. 2 i.e. K.D.Campus Pvt. Ltd. for such competitive examinations. Plaintiff No. 1 has also published various books for training the students to appear for competitive examinations, copyright whereof vests with the plaintiff No. 1.

5. Grievance of the plaintiffs is that the defendant No. 1 which is a Dubai based company engaged in a cloud based instant messaging and voice over IP services, is being utilized by the users to send messages, exchange photos, videos etc, thereby, creating channels which infringe the rights of the plaintiffs by offering online lectures and providing notes to the students.

6. It is the case of the plaintiffs itself that in February, 2020, the plaintiffs discovered that the online video lectures of plaintiff No. 1, published through plaintiff No.2's mobile application were copied illegally and published or broadcasted through various channels operating under defendant No.1. Pursuant to the receipt of the knowledge of infringement, the plaintiffs claim to have issued legal notices to the defendants on 15<sup>th</sup> July, 2020, 16<sup>th</sup> July, 2020, 17<sup>th</sup> July, 2020 and 18<sup>th</sup> July, 2020. Case of the plaintiffs is that in the legal notice dated 15<sup>th</sup> July, 2020, 9 channels were reported. Response of the defendant No. 1 was received on 16<sup>th</sup> July, 2020 and though 8 channels were blocked, 1 channel was still active on 16<sup>th</sup> July,

2020. Pursuant to the notice dated 16<sup>th</sup> July, 2020, when 5 channels were reported, the defendant No. 1 responded on 17<sup>th</sup> July, 2020 and dropped all the 5 channels. Similarly, pursuant to the notice dated 17<sup>th</sup> July, 2020, 12 channels were reported and the on the same day, defendant No. 1 responded claiming that all the reported channels were not available and as on 17<sup>th</sup> July, 2020 itself, none of those channels were active. Thereafter the plaintiffs issued notice to the defendant No. 1 on 18<sup>th</sup> July, 2020 reporting about 27 channels, response whereof, was also received also reporting that the channels were not available. According to the plaintiffs, as on 21<sup>st</sup> July, 2020, 3 channels out of 27 channels reported were still active.

7. On advance intimation, learned counsels for the defendant No. 1 enter appearance. Learned Senior Counsel for the defendant fairly states that at this stage, the defendant No. 1 does not treats the present plaint as adversarial claim suit but the fact is that as per the law laid down by the Supreme Court, as and when the notice has been received by the defendant No. 1, immediate action has been taken and all the channels which were through the cloud services of the defendant No. 1 have been taken down. Learned Senior Counsel states that as regards the notice dated 15<sup>th</sup> July, 2020 is concerned, no channel is now active and as regards the grievance of the plaintiffs regarding 3 channels reported on 18<sup>th</sup> July, 2020 are concerned, 2 of the channels do not exist and 1 channel reported by the plaintiffs is not from the platform of the defendant No. 1. Learned Senior Counsel further states that as and when the plaintiffs report about any channel to the defendant No. 1 which is alleged to be infringing the plaintiffs' rights in the recordings etc., the defendant No. 1, if it is through its cloud services, will take down the same within 36 hours of the receipt of the notice. However,

at this stage, he raises an objection to the maintainability of the present suit as the defendant No. 1 is not based in India nor has its employees or any office working in India and thus, states that this Court would have no territorial jurisdiction to entertain the present suit.

8. Learned Senior Counsel further clarifies that all the channels as prayed for in prayer (B) of IA 6215/2020 have been taken down except *Neetu maam course (t.me/vshusinha1010)* and *SSC Courses Neetu (t.me/ssccoursepaid1)* which do not exist on the defendant No.1's cloud services.

9. Considering the fact that immediate grievance of the plaintiffs has been addressed by the defendant No. 1 and in view of the statement of the learned Senior Counsel for the defendant No. 1 that as and when intimated, the defendant No. 1 will take down the offending channels within 36 hours of the intimation, this Court is not passing any ad-interim injunction at this stage, awaiting the reply affidavit.

10. Reply affidavit be filed within four weeks. Rejoinder affidavit within three weeks thereafter.

11. At this stage, learned counsel for the plaintiffs prays for disclosure of the details of the users of these channels to which learned Senior Counsel for the defendant No.1 prays that he be permitted to file the reply affidavit to this prayer as well, for the reason, servers of the defendant No. 1 are located in various countries and they would be bound by the law as applicable to the said countries regarding disclosure.

12. However, the reply affidavit will clearly explain about the users of the infringing channels as to in which countries they are located and why and under which provision, the defendant No. 1 is obligated not to disclose about

the same.

13. List the application on 23<sup>rd</sup> September, 2020.
14. Order be uploaded on the website of this Court.

**JULY 28, 2020**  
**akb**

**MUKTA GUPTA, J.**