

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-15/2023-DS-II

Dated: 03.05.2023

To,
All Internet Service Licensee's

Subject: CS(Comm) 209 of 2023, Mahindra and mahindra limited & ANR VS. Diksha Sharma Proprietor of Mahindra Packers Movers & Ors. Before Hon'ble Delhi High Court.

Kindly find the enclosed Hon'ble Delhi High court order dated 12.04.2023 on the subject matter.

2. Please refer to the **para 10(iii)** of the said court order in respect of blocking of **05 websites** enumerated in the **para 9** of the said court order.
3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking of the said websites, as above, for compliance of the said court order.

Handwritten signature and date: 03.05.23

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

Encl:A/A

Copy to:

- (i) V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi for kind information and necessary action.
- (ii) S Majumdar & CO, counsel for the plaintiff for kind information.
- (iii) IT wing of DoT for uploading on DoT websites please.



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Patents, Trademarks, Copyrights
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Licensing, Investigations, Litigations
DOMESTIC & INTERNATIONAL



SPEED POST AD

209/2023
Date: 19.04.2023

21/4/23

To,
Department of Telecommunications,
On behalf of Ministry of Communications,
Sanchar Bhawan, 20 Ashoka Road,
New Delhi- 110001

Re: CS (COMM) 209/2023, MAHINDRA AND MAHINDRA
LIMITED & ANR VS. DIKSHA SHARMA PROPRIETOR OF
MAHINDRA PACKERS MOVERS & ORS. BEFORE
HON'BLE DELHI HIGH COURT

We write on behalf of the Plaintiffs in the captioned matter. Our Clients have instituted a suit for infringement of their registered trade mark 'MAHINDRA', passing off as well as engaging in unfair trade practices, damages, rendition of accounts, etc before the Hon'ble Delhi High Court, wherein you have been impleaded as Defendant No.9.

The said suit was listed before the court of Hon'ble Mr. Justice C. Hari Shankar on 12.04.2023, whereby the Hon'ble Court vide order dated 12.04.2023 has granted an ad interim injunction against Defendant Nos. 1 to 4 from using the mark 'MAHINDRA' as a part of their trade mark/trading name/domain name, or any other mark deceptively similar to Plaintiff's trade mark 'MAHINDRA'.

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Further, the Hon'ble Court vide said order dated 12.04.2023 has been pleased to direct you to issue directions to Defendant No.5, 7 & 8 to block the following infringing domain names:

- i. www.mahindrapackers.com,
- ii. www.mahindrapackers.in,
- iii. www.mahindrapackersmovers.com,
- iv. www.mahindrapackersandmovers.com and
- v. www.mahindrapackersandmovers.in

Accordingly, kindly note that the summons in the suit has been issued returnable before the Ld. Joint Registrar, Delhi High Court on 04.07.2023 and notice in the applications under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908 being I.A. 6685 has been issued returnable before the Hon'ble Delhi High Court on 19.07.2023.

In compliance with the provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908, please find enclosed a complete set of the paperbook along with a copy of the order dated 12.04.2023.

Yours Sincerely,

Vishal Nagpal

Advocate

D/6364/2017

Encl: as stated

\$~30 (Original)

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

+ CS(COMM) 209/2023

**MAHINDRA AND MAHINDRA
LIMITED & ANR**

....Plaintiffs

Through: Mr. Jayant K. Mehta, Sr.
Advocate with Mr. Suhrita Majumdar, Mr.
Afzal K. Khan and Mr. Vishal Nagpal,
Adv.

Versus

**DIKSHA SHARMA PROPRIETOR OF MAHINDRA
PACKERS MOVERS & ORS.**

..... Defendants

Through:

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR**

ORDER

12.04.2023

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1. Plaintiff 1 in the present suit is the flagship company of Mahindra Group, stated to have been founded in 1945 and operating in 22 key industries, including automobile engineering and telecommunication. The plaint asserts that, as on 2021-2022, the Mahindra Group comprises 174 subsidiaries/associate companies/joint ventures.

2. Plaintiff 1 claims to have been carrying on business under the corporate name and trading style "Mahindra" and "Mahindra & Mahindra Ltd" since 1948. The plaint has also set out various commendations and encomiums that the plaintiffs have earned over a period of time.

3. Para 11 of the plaint sets out the following registrations held by the plaintiffs, including registrations of the word marks

“MAHINDRA” in Classes 12, 35 and 39. That apart, Plaintiff 1 holds registrations of “MAHINDRA” in the form of various device marks in various classes.

S.No.	TM No. and Class	Date of Application	Trade Mark	Status
1.	322911 in Class 12	10-02-1977	MAHINDRA	Registered
2.	338997 in Class 12	27-07-1978		Registered
3.	354729 in Class 12	25-10-1979		Registered
4.	738967 in Class 12	07-04-1997		Registered
5.	800558 in Class 12	30-04-1998		Registered
6.	800564 in Class 12	30-04-1998	MAHINDRA & MAHINDRA	Registered
7.	2328206 in Class 12	08-05-2012		Registered
8.	2332513 in Class 35	16-05-2012		Registered
9.	2334881 in Class 39	21-05-2012		Registered
10.	2454728 in Class 35	04-01-2013		Registered
11.	2454726 in Class 12	04-01-2013		Registered
12.	2458229 in Class 35	10-01-2013		Registered
13.	2458227 in Class 12	10-01-2013		Registered

14.	2465429 in Class 35	23-01-2013		Registered
15.	2462573 in Class 12	18-01-2013		Registered
16.	2503035 in Class 35	26-03-2013		Registered
17.	2503033 in Class 12	26-03-2013		Registered
18.	3914317 in Class 39	11-08-2018	MAHINDRA	Registered
19.	3914313 in Class 35	11-08-2018	MAHINDRA	Registered
20.	5559194 in Class 39	05-08-2022		Accepted & Advertised
21.	5559190 in Class 35	05-08-2022		Accepted & Advertised
22.	5559144 in Class 12	05-08-2022		Accepted

4. To vouchsafe its reputation and goodwill in the market, the plaintiffs have provided, in para 13 of the plaint, the annual turnover of Plaintiff 1 which, in 2021-2022, is to the tune of ₹ 59,521 crores, with advertisement expenses during the said year being incurred to the tune of ₹ 415 crores.

5. Plaintiff 2 is a part of the mobility service centres of the Mahindra Group and stated to be an integrated third party logistic service provider with specialises in supply chain management and enterprise mobility solutions.

6. The plaintiffs are aggrieved by the cropping up of various websites which use the plaintiffs' trademarks. Mr. Mehta submits that the Supreme Court, in its judgment in *Mahendra & Mahendra Paper*

*Mills Ltd. v. Mahindra & Mahindra Ltd.*¹, has already recognized the plaintiffs' marks to be a well-known trademark.

7. As such, Mr. Mehta submits that the plaintiffs would be entitled to protection across classes, against infringement of its registered trademarks.

8. The defendants are stated to be packers and movers who are using the word "MAHINDRA", in the form of various devices and logos. Inasmuch as Plaintiff 2 is also engaged in providing similar services, Mr. Mehta submits that the use, by the defendants, of the mark "MAHINDRA" infringes the plaintiffs' registered trademarks and, as it could confuse customers into believing the existence of an association between the defendants and the plaintiffs, would also result in passing off, by the defendants, of their services as those of the plaintiffs.

9. The defendants have also registered the following infringing domain names:

- (a) www.mahindrapackers.com,
- (b) www.mahindrapackers.in,
- (c) www.mahindrapackersmovers.com,
- (d) www.mahindrapackersandmovers.com and
- (e) www.mahindrapackersandmovers.in

10. It is in these circumstances that the plaintiffs have approached this Court by means of the present suit, seeking

- (i) a permanent injunction against the defendants and all other acting on their behalf from using the plaintiffs' trademarks "MAHINDRA" and/or or any other mark or name which is

¹ (2002) 2 SCC 147
CS(COMM) 209/2023

deceptively similar thereto,

(ii) a direction to Defendants 5, 7 and 8 to block/suspend the aforesaid five domain names enlisted in para 9 (supra),

(iii) a direction to Defendant 9 to instruct the Domain Name Registrar/internet service licensees to block the aforesaid five domain names and

(iv) a direction to Defendant 6 to delist any listing pertaining to the aforesaid domain names,

apart from damages and costs.

11. A clear *prima facie* case of infringement, by the defendants, of the plaintiffs' registered trademarks is made out. There is also substance in Mr. Mehta's contention that by use of the said marks, the defendants are passing off their services as those of the plaintiffs.

12. In the circumstances, let the plaint be registered as a suit. Issue summons in the suit.

13. Written statement, accompanied by affidavit of admission and denial of the documents filed by the plaintiffs be filed within 30 days with advance copy to learned Counsel for the plaintiffs who may file replication thereto, accompanied by affidavit of admission and denial of the documents filed by the defendants within 30 days thereof.

14. List before the learned Joint Registrar (Judicial) for completion of the pleadings, admission and denial of documents and marking of exhibits on 4th July 2023, whereafter the matter would be placed before the Court for case management hearing and further proceedings.

I.A. 6685/2023 (Order XXXIX Rules 1 and 2 of the CPC)

15. This is an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC), seeking interlocutory injunctive reliefs.

16. In these circumstances, following the principles enunciated in *Midas Hygiene Industries P. Ltd. v. Sudhir Bhatia*² and *Laxmikant V. Patel v. Chetanbhai Shah*³ an order of injunction is to follow. As such, till the next date of hearing, the following directions are issued:

(i) The defendants as well as all others acting on their behalf shall stand restrained from using directly or indirectly the mark “MAHINDRA” or any other mark or name which is deceptively similar thereto.

(ii) Defendants 5, 7 and 8 are directed to block/suspend the five domain names enlisted in para 9 (*supra*) as well as any alphanumeric variation thereof.

(iii) Defendant 9 is directed to issue directions to the Domain Names Registrar/internet service licensees to block the aforesaid domain names.

(iv) Defendant 6 is directed to delist any listing pertaining to the aforesaid infringing domain names and to block/suspend the email IDs enlisted in para 51 of the I.A.

17. Let compliance under Order XXXIX Rule 3 of the CPC be

² (2004) 3 SCC 90
CS(COMM) 209/2023

ensured by the plaintiffs within one week from today.

18. Issue notice, returnable before the Court on 19th July, 2023.

19. Reply be filed within a period of four weeks with advance copy to learned Counsel for the plaintiffs, who may file rejoinder thereto within four weeks thereof.

20. *Dasti.*

I.A. 6686/2023 (Order XI Rule 5 of the CPC)

21. Issue notice, returnable before the Court on 19th July, 2023.

22. Reply be filed within a period of four weeks with advance copy to learned Counsel for the plaintiffs, who may file rejoinder thereto within four weeks thereof.

I.A. 6687/2023 (Section 12A of the Commercial Courts Act, 2015)

23. In view of the judgment of the Division Bench of this Court in *Chandra Kishore Chaurasia v. R.A. Perfumery Works Pvt Ltd*⁴, exemption is granted from the requirement of pre-institution mediation under Section 12A of the Commercial Courts Act, 2015.

24. The application stands allowed accordingly.

I.A. 6688/2023 (Order XI Rule 1(4) of the CPC)

³ (2002) 3 SCC 65

⁴ 2022 SCC OnLine Del 3529
CS(COMM) 209/2023

25. This application seeks permission to file additional documents. The plaintiffs are permitted to place additional documents on record in accordance with Order XI Rule 1(4) of the CPC as amended by the Commercial Courts Act within four weeks from today.

26. The application stands disposed of accordingly.

I.A. 6689/2023 (Exemption)

27. Subject to the plaintiffs filing legible copies of any dim or illegible documents within 30 days, exemption is granted for the present.

28. The application is disposed of.

I.A. 6690/2023 (Exemption)

29. For the reasons stated in the application, the plaintiffs are exempted from the requirement of serving an advance notice on the defendants.

30. This application stands allowed accordingly.

C.HARI SHANKAR, J

APRIL 12, 2023

rb

IN THE HIGH COURT OF DELHI AT NEW DELHI

(*Ordinary Original Commercial Jurisdiction*)

CS(COMM)_____/2023

CODE: 36017

In the matter of:

Mahindra and Mahindra Limited & Anr.Plaintiffs

Versus

Diksha Sharma proprietor of Mahindra Packers
& Movers & Ors. ...Defendants

MEMO OF PARTIES

1. Mahindra and Mahindra Limited,

A company incorporated under

The Companies Act, 1956,

Having its registered address at

Gateway Building , Apollo Bunder, Mumbai

MH 400001 IN.

del@majumdarip.com

vishal.nagpal@majumdarip.com

...Plaintiff No.1

2. Mahindra Logistics Limited,

A company incorporated under

The Companies Act, 1956,

Mahindra Towers, P.K. Kurne Chowk,

Worli, Mumbai MH 400018 IN

...Plaintiff No. 2

Versus

1. Diksha Sharma as proprietor of Mahindra Packers

Movers,

With its principal place of business at

P.No.-132, Main Road,

Bharthal, South West Delhi, Delhi, 110061.

Near Krishna chowk, Gurgaon, 122017

Also at:

H.N 1352, Ground floor,

Dr. Mukharjee Nagar,

Near Batra cinema, Delhi 110009

Also at:

Shop No. 56, Ch. Hansraj Bhati Market

Greater Noida, Uttar Pradesh 201310

<http://www.mahindrapackersandmovers.com/>

info@mahindrapackersandmovers.com

mahindrapackersandmover@gmail.com

+91 9311442444

+91 9811443444

...Defendant No.3

**4. John Doe No.2 as proprietor of
www.mahindrapackersandmovers.in,**

With its office at

Bangaihati, Hoogly,

Old Delhi Road, Dankuni,

Beside Maruti Bhandari Showroom

West Bengal -712203,

<https://mahindrapackersandmovers.in/>

Mahindracargologistics07aa@gmail.com

info@mahindrapackersandmovers.in

9062123111

...Defendant No. 4

5. GoDaddy.com, LLC

2155 E.GoDaddy Way

Tempe, Arizona 86284 United States

HQ@godaddy.com

...Defendant No. 5

6. Google LLC.

1600 Amphitheatre Pkwy,
Mountain View, CA 94043,
United States

support-in@google.com

...Defendant No.6

7. NameCheap Inc.

4600 East Washington Street
Suite 305, Phoenix, AZ 85034
USA

Email: support@namecheap.com

...Defendant No.7

8. PDR Ltd.

501, IT Building No 3,
Nesco IT Park, Nesco Complex
Western Express Highway,
Goregaon, Mumbai 400064

compliance@publicdomainregistry.com

...Defendant No. 8

9. Department of Telecommunications,

On behalf of Ministry of Communications,

Sanchar Bhawan, 20 Ashoka Road

New Delhi- 110001

...Defendant No. 9

Place: New Delhi

Date: .03.2023

S. Majumdar & Co.

(Advocate for the Plaintiff)

G-48, LGF, Lajpat Nagar – III,

New Delhi – 110024

Ph: +91 9881880037

Note: Plaintiff No.1 is the main contesting Plaintiff. Plaintiff No.2 is a related entity/group company of Plaintiff No.1 Hence, court fee is only paid by Plaintiff No.1. Defendant No.1 to 4 are the main contesting Defendants.

IN THE HIGH COURT OF DELHI AT NEW DELHI
 (Ordinary Original Commercial Jurisdiction)
CS (COMM) _____/2023
CODE: 36017

In the matter of:

1. Mahindra and Mahindra Limited,

A company incorporated under
 The Companies Act, 1956,
 Having its registered address at
 Gateway Building , Apollo Bunder, Mumbai
 MH 400001 IN.
 del@majumdarip.com;
 afzal.khan@majumdarip.com

...PLAINTIFF NO.1

2. Mahindra Logistics Limited,

A company incorporated under
 The Companies Act, 1956,
 Mahindra Towers, P.K. Kurne Chowk,
 Worli, Mumbai MH 400018 IN

...PLAINTIFF NO. 2

- Versus -

**1. Diksha Sharma as proprietor of Mahindra Packers
 Movers,**

With its principal place of business at
 P.No.-132, Main Road,
 Bharthal, South West Delhi, Delhi, 110061.

Also at:

Plot No.297, Near SBI Bank,
 Opp. DDA Flats, Sec-26, Dwarka, Delhi 110077

Also at:

Shop No.7, Sector 5,
 Opp Police Fire Station, Noida 20301

Also at:

Plot No.54, Sheetla Mata Mandir,
 Near Bharth Patrol Pump, Gurugram - 122001
<https://www.mahindrapackers.com>
info@mahindrapackers.in
info@Mahindrapackers.com
 +91 8588022235
 +91 8588033397

...DEFENDANT NO. 1

Santam Singh

Shubhi Mehra