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

+ CS(OS) 499/2024

**GUJARAT COOPERATIVE MILK MARKETING FEDERATION  
LIMITED** .....Plaintiff

Through: Mr. Sunil Dalal, Sr. Advocate with  
Mr. Abhishek Singh, Mr. Jamal  
Anand, Ms. Azisha Sharma, Mr.  
Elvin Joshi, Mr. Shashwat Tyagi, Mr.  
Mahabir Singh, Mr. Namish Bhati  
and Mr. Nikhil Beniwal, Advocates.

versus

**DEEPA DEVI & ORS.** .....Defendants

Through: Mr. Neel Mason and Ms. Ekta  
Sharma, Advocates for D-4.

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

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**04.07.2024**

**I.A. 31785/2024**

1. Learned senior counsel for the plaintiff states that in compliance with the order dated 01.07.2024, the *dasti* summons of the suit have been served upon defendants nos. 1 and 2 personally and in addition, defendant nos. 1 and 2 have also been served on their e-mail addresses on which they have last corresponded with the plaintiff. He states that the defendant nos. 1 and 2 have also been served on WhatsApp at their available mobile number through which they had communicated with the plaintiff in June, 2024. He states summons also stand served upon their counsel, Mr. Rajat Maken who had contacted the counsels for the plaintiff after advance service. He states that defendant nos. 1 and 2 have therefore, been duly served with Court



summons.

2. The matter was firstly called out in the morning session and since none appeared for the defendant nos. 1 and 2, it was passed over to await their presence. However, even on the second call, none appears for the defendant nos. 1 and 2.

3. Learned senior counsel for the plaintiff states that numerous stringent quality checks have been employed by the plaintiff, at every stage, from procurement of raw milk from the farmer till the manufacturing of the ice cream at the plaintiff's state of art ISO certified plants, till the loading of finished product in specially designed temperature controlled refrigerated vans. The stringent quality checks, completely and absolutely, ensures that no physical, bacterial or chemical contamination whatsoever, is introduced to the product and also, ensures that each product conforms to the standards laid out by the Food Safety and Standards Authority of India (FSSAI). He states that stringent inspection is done at every stage right from milking the cattle till packaging and loading, stringent quality inspection is carried out. He states that, therefore, it is absolutely impossible for any foreign substance, let alone an insect, to be present in an AMUL ice cream tub packed at the facility.

3.1. He states that as narrated in the plaint even on 15.06.2024, after the plaintiff's representative had personally met with defendant nos. 1 and 2, they refused to handover of the subject Amul ice cream tub bearing batch no. MKN 106 [packed on 15.04.2024], so that the tub could be tested to verify the claims of defendants nos. 1 and 2. He states that the plaintiff was willing to investigate the matter to ascertain the veracity of the claims of defendant nos. 1 and 2. He states, however, the defendant nos. 1 and 2



refused to make available the said ice cream tub to the officials of the plaintiff.

3.2. He states that the plaintiff verily believes that defendant nos.1 and 2 have not lodged any formal complaint with any statutory authority and the product in question has not been submitted for any investigation. He states that the plaintiff is willing to have the product tested at any of the government approved laboratories and has separately filed I.A. 31786/2024 for directions of such investigation.

3.3. He states that it is the case of the plaintiff that the claims made by the defendant nos. 1 and 2 in their social media posts are false and incorrect. He states that the fact that defendant nos. 1 and 2 have shown their unwillingness to cooperate in the testing of the said ice cream tub on 15.06.2024 and have failed to appear before this Court despite being duly served with summons, substantiates the averments in the plaint that the claims made by defendant nos. 1 and 2 in their social media posts in June, 2024 are not genuine and have been made with oblique motives.

3.4. He prays that at this interim stage relief(s) sought against defendants no. 1 and 2 at prayer clause nos. (i), (ii), and (iii) be granted *ex-parte*. He further states that in case defendant nos. 1 and 2 fail to comply with directions of this Court qua prayer clause nos. (i) and (ii), the plaintiff may be granted liberty to write to defendant no. 3 to take down the impugned posts.

4. Having heard Mr. Dalal and after perusing the averments made in the plaint as well as in the present application and the documents filed therein, this Court is of the view that the plaintiff has made out a prima facie case for grant of interim *ex-parte* order in terms of prayer clause nos. (i), (ii), and



(iii).

5. The suit was first listed before this Court on 01.07.2024 and on the same date this Court was of the opinion that defendant nos. 1 and 2 should be afforded an opportunity of hearing before considering the application for interim reliefs. It is a matter of record that defendant nos. 1 and 2 were served with an advance copy of the suit record in June, 2024 by the counsel for the plaintiff prior to its first listing on 28.06.2024; however, none appeared for the defendants either on 28.06.2024 or 01.07.2024. This Court was of the view that Court summons be served on the defendant nos. 1 and 2 to secure their appearance. Accordingly, the summons in the suit and the application were issued on 01.07.2024 and as noted above the *dasti* summons have since been personally served upon defendant nos. 1 and 2 physically by the plaintiff.

6. Thus, defendant nos. 1 and 2 were thus given an opportunity to appear before this Court and make good their case as sought to be canvassed in their social media posts uploaded on 15.06.2024. However, the defendant nos. 1 and 2 have elected not to appear despite opportunity to justify the posts. It would be relevant to observe that defendant nos. 1 and 2 are not only refusing to appear before this Court but as per the averments in the plaint had also refused to hand over the said ice cream tub to plaintiff for the purpose of the investigation on 15.06.2024 itself. This Court on 01.07.2024 had also issued notice to defendant nos. 1 and 2 in I.A. No. 31786/2024 filed by the plaintiff seeking direction of investigation of the ice cream tub in the custody of defendant nos. 1 and 2 at a government approved laboratory.

7. The wilful non-appearance of defendant nos. 1 and 2 despite service of summons leads to this Court to believe that on a prima facie consideration



of the facts set out in the plaint and materials placed on record, the plaintiff has made out a case for interim orders. The non-appearance of defendant nos. 1 and 2 evidences their unwillingness to participate in the forensic examination and verification of their claims of the dead insect made in the social media posts uploaded on 15.06.2024. The plaintiff has categorically challenged the said assertions and defendant nos. 1 and 2's non-cooperation and absence before this Court gives credence to the plaintiff's submission. The balance of convenience at this stage, therefore lies in favour of plaintiff and against the defendant nos. 1 and 2

8. Accordingly, *ad interim ex-parte* relief(s) qua prayer clause nos.(i), (ii) and (iii), are granted in favour of the plaintiff and against the defendant nos. 1 and 2, in the following manner: -

- a) Defendant nos. 1 and 2 are directed to forthwith remove the social media posts uploaded by them on defendant no. 1's Twitter/X account titled @Deepadi11 at the address set out in the prayer clause nos. (i) and (ii), within 3 days from the date of passing of this order. The defendant nos. 1 and 2 are restrained from posting and uploading any content identical or similar to the said post on the above Twitter/X account or any other social media platform including Facebook, Instagram and YouTube until further orders. The defendant nos. 1 and 2 are further restrained from publishing or causing to publish any content with regard to the plaintiff or plaintiff's product with respect to the incidents referred to in the plaint, anywhere on the internet or in print or electronic media until further orders.
- b) It is further directed that in case defendant nos. 1 and 2 fail to take down the said social media posts within three days, the plaintiff shall



be at liberty to write to defendant no. 3 to delete the said posts as uploaded by the defendant no. 1 and 2 on their social media account on the platform of defendant no. 3.

9. List on 22.07.2024.

10. Let the provisions of Order XXXIX Rule 3, Code of Civil Procedure, 1908 be complied within two days from today.

11. Summons be issued to the remaining defendant nos. 3 and 5 for 22<sup>nd</sup> July 2024, by registry through all modes.

**CS(OS) 499/2024 & I.A. 31786/2024**

12. List on 22.07.2024.

**JULY 4, 2024/p/MG**

**MANMEET PRITAM SINGH ARORA, J**

*Click here to check corrigendum, if any*