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

+ **CS(COMM) 155/2022 & I.A. 3952/2022(for stay)**

**UPCURVE BUSINESS SERVICES PVT LTD** ..... Plaintiff

Through: Mr. Gaurang Kanth, Mr. S.S. Sisodia,  
Ms. Biji Rajesh, Ms. Heena Kochar,  
Ms. Aayushi Jain, Mr. Archit Rajput,  
Ms. Huma Sardar, Advocates  
(M:9313771073)

versus

**EASY TRIP PLANNERS PRIVATE LIMITED  
& ORS.** ..... Defendants

Through: Ms. Shagun Saproo, Advocate for D1  
Mr. Sandeep Sethi, Sr. Adv. with Mr.  
Neel Mason, Mr. Vihan Dang, Mr.  
Ankit Rastogi, Ms. Vennela Reddy,  
Ms. R. Ramya, Ms. Aditi Umapathy,  
Mr. Parva Khare, Ms. Devangini Rai,  
Advocates for D-4  
Mr. Aditya Gupta, Ms. Abhilasha  
Nautiyal & Mr. Sauhard Alung,  
Advocates for D-3(M:9425341404)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **16.03.2022**

1. This hearing has been done through hybrid mode.
2. Pursuant to the previous order dated 15<sup>th</sup> March, 2022, submissions have been made in part by Mr. Sandeep Sethi, ld. Sr. Counsel appearing on behalf of Defendant No.4, on the question of whether use of a trademark as a keyword on the Google Ad program, would constitute infringement.

3. Yesterday, the Court had, after recording Defendant No.1's stand, passed an order binding the said Defendant it would not use the Plaintiff's mark as a key-word. Insofar as Defendant No.2 is concerned, the said Defendant was not represented yesterday and the Court was inclined to grant ad-interim injunction restraining the said Defendant from using the Plaintiff's mark 'udchalo' as a keyword for promoting its own travel business. The Court was of the opinion that the use of the mark 'udchalo' would constitute infringement by Defendant No.2. On this issue, adjournment was sought by Id. Senior Counsel appearing for Defendant No.3 & 4 to assist the Court on the question as to whether the same would constitute infringement or not.

4. Mr. Sethi, Id. Senior Counsel, has submitted today that Defendant No.2 was contacted by Defendant Nos.3 & 4, and Defendant No.2 has expressed that he could not appear before the Court due to his personal difficulty. However, it is submitted by Mr. Sethi that the said Defendant was also a Defendant in **CS(COMM) 524/2020** titled **Makemytrip(India) Pvt. Ltd. v. M/s Travelogy & Ors.**, wherein, as recorded in order dated 27<sup>th</sup> November, 2020, Defendant no.1 stated that he has never bid for any registered trademark of the Plaintiff and does not intend to bid for the same. Reliance is placed on the said order. Relevant portion of the said order is as below:

*“Learned counsel for the defendant No. 1 states that the defendant No. 1 has never bid for any of the registered trademark of the plaintiff and does not intend to use the same. According to the defendant No. 1, in the reply dated 24th August, 2020, they*

*stated that they have not bid for any keywords in the Google ad-words whcih matches with any of the words mentioned in the legal notice.”*

5. Be that as it may, Defendant No.2 is in the competing business of travel services. The use of ‘*udchalo*’ as a keyword to promote Defendant No.2’s own business would be violative of the Plaintiff’s trademark rights. Accordingly, Defendant Nos.3 & 4 are directed to block the keyword usage of the Plaintiff’s mark ‘*udchalo*’, by Defendant No.2. Defendant No.1 and 2 are also restrained from placing any further bids for keyword ‘*udchalo*’ till the next date of hearing.
6. On the issue of whether the same would constitute infringement in law or not and whether the use of a trade mark as keyword would constitute violation of law, the matter shall be treated as a part-heard matter.
7. Defendant Nos. 3 and 4 shall ensure compliance with this order.
8. This is a part heard matter.
9. List this matter for further submissions, on 8<sup>th</sup>April, 2022, along with ***CS(COMM) 392/2019*** titled ***Cars24 Services Pvt. Ltd. & Anr. v. Girnarsoft Automobiles Pvt. Ltd. & Ors.***, wherein similar issues have been raised before the Court.
10. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, [www.delhihighcourt.nic.in](http://www.delhihighcourt.nic.in), shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

**PRATHIBA M. SINGH, J.**

**MARCH 16, 2022/aman/MS**