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

+ **CS(COMM) 540/2020**

I.A.11578/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A.11579/2020 (exemption)

GUJARAT COOPERATIVE MILK

MARKETING FEDERATION LTD. & ANR. Plaintiff

Represented by: Mr.Chetan Sharma, Sr. Advocate
with Mr.Abhisek Singh, Mr.Akshay
Gadeock, Ms.Aayushi Mishra,
Mr.J.Amal Anand, Advocates.

versus

NITIN JAIN & ORS. Defendant

Represented by: Mr.Raj Panjawani, Sr. Advocate with
Ms.Supriya Juneja, Mr.Adiyta Singla,
Ms.Priyanka Bangari, Ms.Heena
Rohra, Mr.Sheikh F.Kalia, Advocates
for D1.
Mr.Neel Mason, Advocate with
Ms.Ridhima Pabbi, Ms.Ekta Sharma,
Ms.Aditi Umapathy, Advocates for
D2-Google LLC

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

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O R D E R

07.12.2020

The hearing has been conducted through video conferencing.

I.A. 11579/2020 (exemption)

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

CS(COMM) 540/2020

1. Plaintiff be registered as a suit.

2. Issue summons in the suit to the defendants.
3. Learned counsels appearing for the defendant No. 1 and defendant No. 2 accept summons in the suit.
4. Summons be now issued to the defendant No. 3 on the plaintiffs taking steps through Email, SMS, Whatsapp, Speed Post and Courier, returnable before the learned Joint Registrar for completion of service, pleadings and admission-denial of documents on 8th February, 2021.
3. Written statements to the suit along with the affidavits of admission-denial will be filed within thirty days. Replication along with the affidavit of admission-denial within three weeks thereafter.
4. List the suit before Court on 26th April, 2021.

I.A. 11578/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Notice.
2. Learned counsels appearing for the defendant No. 1 and defendant No. 2 accept notice in the application.
3. Notice in the application be now issued to the defendant No. 3 on the plaintiffs taking steps through Email, SMS, Whatsapp, Speed Post and Courier, returnable before this Court on 15th January, 2021.
4. Reply affidavit be filed within two weeks. Rejoinder affidavit within two weeks thereafter.
5. Learned counsel appearing for the defendant No. 1 relies on the judgment in 2011 SCC Online Del 466 Tata Sons Ltd. Vs. Greenpeace International.
6. As the alleged videos are in public domain since the year 2018 and the learned counsel for the defendant No. 1 claims exception under Section 29 of the Trade Marks Act, claiming that the defendant No. 1 is not using

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the trademark of the plaintiff for commercial purposes, this Court is not passing any ad interim injunction today and granting opportunity to the defendant No.1 to file the reply.

7. The defendant No. 1 in its reply affidavit will also show how the plaintiff or even the members of its society are indulging in cruelty to the Cows as envisaged in the videos and why the mascot of the plaintiff has been used. Along with the reply affidavit, the defendant No. 1 will also state, whether it obtains any profits out of the videos uploaded and if yes, the statement of accounts thereof.

7. Copy of the order be uploaded on the website of this Court.

MUKTA GUPTA, J.

DECEMBER 07, 2020
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