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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 1089/2024 & I.A. 47421/2024 I.A. 47422/2024**
I.A. 47423/2024 I.A. 47424/2024 I.A. 47425/2024
NIVA BUPA HEALTH INSURANCE COMPANY LIMITED

.....Plaintiff

Through: Mr. Pradeep K. Bakshi, Sr.
Adv. with Mr. Mohit Bakshi,
Mr. Kushagra Pandit and Mr.
Akshaja Singh, Advs.

versus

TELEGRAM FZ-LLC & ORS.

.....Defendants

Through: Mr. Madhav Khosla, Adv. for
D-1 (Through VC)
Ms. Ekta, Adv. for D-4
(Through VC)

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **05.12.2024**

I.A. No.47425/2024 (Seeking exemption from filing legible copies of annexures with improper margin)

1. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing
2. The application for exemption is allowed, subject to the plaintiff granting inspection of the documents filed, as and when required to do so, or filing the original documents at the stage of admission/denial.
3. The application stands disposed of.



I.A. No.47423/2024 (Seeking exemption from pre-institution mediation along with supporting affidavit and Schedule)

4. This is an application seeking exemption from pre-institution mediation as required under Section 12 A of the Commercial Courts Act, 2015.

5. For the reasons stated in the application, Petitioner stands exempted from pre-institution mediation. Accordingly, application stands allowed.

I.A. No.47422/2024 (Seeking enlargement and extension of time for filing the court fees)

6. Exemption is granted subject to just exception. Plaintiff shall deposit the court fee within two (2) weeks.

7. Accordingly, the application stands disposed of.

I.A. No.47424/2024 (Seeking exemption from giving prior notice to parties under 22-26 Section 80 of the Code of Civil Procedure, 1908)

8. Issue notice. Reply if any, be filed within four weeks from today. Rejoinder thereto, if any be filed within two (2) weeks thereafter.

9. Re-notify on 24.01.2025.

CS (COMM.) No.1089 of 2024

10. The plaint be registered as a suit. Issue summons.

11. Mr. Madhav Khosla, learned counsel on behalf of the Defendant No. 1 and Ms. Ekta, learned counsel for Defendant no. 4 have entered appearance. Both counsels confirm the receipt of the suit paper-book and waive the right of formal service of summons.



12. Issue summons to remaining Defendants nos. 2, 3, 5 and 6 through all permissible modes on filing of process fee. In addition, through nominated counsel/standing counsel. Affidavit of service be filed within two weeks.

13. The summons shall indicate that written statements must be filed within thirty (30) days from the date of receipt of summons. The defendant shall also file affidavits of admission/denial of the documents filed by the plaintiffs, failing which the written statements shall not be taken on record.

14. The plaintiffs are at liberty to file replications thereto within thirty (30) days after filing of the written statements. The replications shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendant, failing which the replications shall not be taken on record.

15. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

16. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

17. List before the learned Joint Registrar for completion of service and pleadings on **10.01.2025**.

18. List before the Court on **24.01.2025**.

I.A. No.47421/2024(application under Order XXXIX Rules 1 & 2 CPC).

19. By way of the present application filed under Order XXXIX Rules 1 and 2 read with Section 151 CPC, the plaintiff has sought following reliefs :-



- i. pass an order of temporary injunction restraining Defendant No. 7 and their directors, proprietors, operators, partners, employees, agents, servants and affiliates and any persons claiming through them from using, copying, publishing, distributing, transmitting, communicating or disclosing to any person the Plaintiff's confidential information by any medium whatsoever or on any platform whatsoever.
- ii. pass an order of temporary injunction restraining Defendant No. 7 and their directors, proprietors, operators, partners, employees, agents, servants and affiliates and any persons claiming through them from infringing the Plaintiffs Licensed registered trademarks including "Bupa" by making, creating, publishing, uploading, circulating and/or reproducing content depicting the use of any trademark that is identical and/or that is deceptively similar and/ or substantial reproduction of the Plaintiffs trademark any like nature in any medium/form including television, print media and/or the internet and/or in any manner whatsoever;
- iii. pass an order of temporary injunction restraining Defendant No. 7 and their directors, proprietors, operators, partners, employees, agents, servants and affiliates and any persons claiming through them from passing off the Plaintiffs mark and brand name "Niva Bupa" and/or words and/or use of a mark that are identical and/or deceptively similar to the Plaintiffs trademarks and further restraining the Defendant No. 7 from misleading! misrepresenting to any person that they have any association with the Plaintiff and/ or its business activities in any manner whatsoever.
- iv. to pass an order directing Defendant Nos. I to 6 to take all necessary steps to remove, delete, block and disable accounts, content and domain names, and associated email addresses and phone numbers, that use the Plaintiffs name, likeness or mark or are otherwise used, to disseminate, leak or publish the confidential information within 24 hours of intimation by the Plaintiff;



v. pass an order directing Defendant No.5 and 6 to issue necessary instructions to internet service providers, intermediaries and other relevant authorities to remove, delete, block and disable accounts, content, domain names, and phone numbers and email addresses associated with email accountbsdqwasdg@gmail.com. Telegram ID github_hb.

vi. pass an order directing Defendant Nos. I to 6 to disclose on affidavit before this Hon'ble Court, all details of Defendant No. 7 including their KYC details, names, associated addresses, email addresses, contact details including phone numbers, organization and associations, URL(s) and IP addresses associated with email accountbsdqwasdg@gmail.com. Telegram ID githubj_ib.

20. Mr. Pradeep K. Bakshi, learned Sr. Counsel for the Plaintiff states that Plaintiff is an insurance company registered with the Insurance Regulatory and Development Authority of India (“IRDAI”). He states that as part of the Plaintiff’s business processes and statutory and regulatory requirements, including Know Your Customer (“KYC”) obligations, the Plaintiff collects and stores sensitive personal data relating to its customers. He states that the data collected is used solely for meeting regulatory obligations and for providing services to its customers. He states that all of this information is provided by the customers to the Plaintiff on a highly confidential basis and is to be used only by the Plaintiff and regulators in accordance with law. He states that the confidential information that the Plaintiff receives and retains includes the following: (i) name of the customer; (ii) identity proof; (iii) address; (iv) policy copy and policy number; (v) premium details and receipt number; (vi) mobile number; and other personal details of its customer.



20.1 He states that on 28.11.2024 the Plaintiff received an email from an anonymous and unnamed person using an email address <bsdqwasdg@gmail.com>. He states that the unknown person is arrayed as John Doe, Defendant No. 7. He states that in the aforesaid email Defendant No. 7 claims that it has obtained unauthorized access to a large part of Plaintiff's sensitive customer data and had threatened the Plaintiff that the said data would be leaked if Plaintiff refuses to negotiate with him and agree to his demands. He states that the said email also contained samples of data that appear to have been unlawfully acquired by Defendant No. 7. He states that Defendant No.7 also sent further emails asking the Plaintiff to contact it via Telegram (i.e. Defendant No.1's platform) using the Telegram ID "github_hb". He states that the Defendant No.7 also contacted the Plaintiff through messages on the chat box platform of the Plaintiff's website.

20.2 He states that Defendant No. 7 has breached the elaborate security measures put in place by the Plaintiff to protect customer data and confidential information. He states that this appears to be an orchestrated ransomware attack by Defendant No. 7 whose sole intention is to extort money from the Plaintiff by threatening to publish or sell confidential customer data. He states that the Plaintiff also apprehends that Defendant No. 7 is likely to use the data to impersonate the Plaintiff by infringing the Plaintiff's registered trademarks and/or by passing off.

20.3 He states that Plaintiff's apprehension that Defendant No. 7 will in fact publish or misuse the data is well founded and borne out from



the fact that similar ransomware incidents have occurred in the recent past with three other financial service providers. He refers to orders passed by Madras High Court in ***Star Health and Allied Insurance Co. Ltd. vs. Telegram Messenger & Ors C.S. (COMM.DIV) No.178 of 2024*** and by Bombay High Court in ***HDFC Life Insurance Co. Ltd. vs. Meta Platforms & Ors. COM IPR SUITS (M) NO.35837 of 2024*** wherein an identical incident occurred and involved other insurance companies.

20.4 He states that such ransomware attacks have also been noticed by Defendant No.6 and it has published a paper on this issue titled “Ransomware Attack: An Evolving Targeted Threat” on its website.

20.5 He relies on the order dated 16.07.2024 passed by Bombay High Court in ***National Stock Exchange of India Ltd. vs. Meta Platforms, Inc. & Ors. COM IPR Suit (L) No.21111 of 2024***. In the said order, the High Court recorded the unlawful and infringing publications relating to the plaintiff therein by unknown persons on various online platforms and also referred to the obligations of intermediaries under ‘The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021’ framed under the ‘Information Technology Act, 2000’ and in particular Rule 3(1) to take prompt action for preventing such unlawful publication on their social media platforms that infringes the rights of the Plaintiff. The High Court thereafter proceeded to grant ad-interim relief inter alia prohibiting further publication of infringing material and directing the intermediaries to delete the infringing content as well disclose the details of the perpetrators on affidavit.



20.6 The Delhi High Court has also passed similar take-down orders in matters involving unknown perpetrators/John Doe's in ***Razorpay Software (P) Ltd. vs. Jon Dae & Ors.*** CS(COMM.) No.269 of 2024 and ***Doctutorials Edutech (P) Ltd. vs. Telegram FZ-LLC and Ors.*** CS(COMM.) No.60 of 2022.

21. In reply, Mr. Madhav Khosla learned Counsel appearing for Defendant No.1 states that in principle, Defendant No. 1 does not have any objection to the grant of release sought at prayer clause '9 iv' and '9 vi' of the captioned application, subject to the Plaintiff providing (i) the URL/account details of the offending Telegram post or account or channel or group in question; (ii) indicating the violative nature of the content sought to be blocked/removed/disabled along with at least some screen shots to demonstrate its presence on the Telegram platform.

21.1 He states that so far as relief sought as prayer clause '9 vi' is concerned Defendant no. 1/Telegram will provide details of the post or accounts or groups or channel in question to the extent available with telegram.

21.2 He states that upon receiving a copy of the proceedings before the Bombay High Court in ***HDFC Life Insurance Co. Ltd. vs. Meta Platforms*** (supra), Defendant No.1 made internal enquiries regarding the Telegram ID "github_tb". He states while the user name of the Telegram ID appears to have been changed to "github_hb", Telegram identified the changed user name, associated with the account in question and has blocked access to the same.



21.3 He states in future upon receiving intimation on grievance-in@telegram.org Defendant No. 1 will take necessary action immediately, preferably within 24 hours.

22. Ms. Ekta, learned counsel appearing for defendant no. 4 stated that it shall provide Basic Subscriber Information (BSI) to the plaintiff qua the e-mail account of Defendant no. 7 referred to in the plaint and paragraph no. 20.1 of this order.

23. Having considered the facts set out in the plaint, and the provisions of the IT Rules, this Court is of the view that the Plaintiff has made out a strong prima facie case for grant of ad-interim relief. Disclosure of the sensitive and confidential customer data can be highly damaging to both the Plaintiff and its customers. The Plaintiff has pointed out that publication, sale or misuse of the data can result in identity theft, financial fraud, privacy violations and unauthorized transactions. The data can be misused for a variety of purposes including for the purpose of impersonating the Plaintiff, which would also involve infringement of the Plaintiff's registered trademark and passing off. Such damage cannot not be compensated in terms of money especially since Defendant No.7 is an unknown entity.

24. Thus, the balance of convenience also lies in favour of the Plaintiff and irreparable loss and/or harm will be caused to the Plaintiff, unless the ad-interim relief sought for is granted.

25. In view of the following ad-interim relief is granted to the Plaintiff.

- i. Defendant No. 7 and their directors, proprietors, operators, partners, employees, agents, servants and affiliates and any



persons claiming through them are hereby restrained from using, copying, publishing, distributing, transmitting, communicating or disclosing to any person the Plaintiff's confidential information by any medium whatsoever or on any platform whatsoever.

- ii. Defendant Nos. 1 to 6 are directed to take all necessary steps to remove, delete, block and disable accounts, content and domain names, and associated email addresses and phone numbers, that use the Plaintiffs name, likeness or mark or are otherwise used, to disseminate, leak or publish the confidential information preferably within 24 hours of intimation by the Plaintiff.
- iii. Defendant No. 5 and 6 are directed to issue necessary instructions to internet service providers, intermediaries and other relevant authorities to remove, delete, block and disable accounts, content, domain names, and phone numbers and email addresses associated with email account `bsdqwasdg@gmail.com`, Telegram ID `github_hb`.
- iv. Defendant Nos. 1 to 4 are directed to disclose on affidavit before this Court, all available details of Defendant No.7 including their names, associated addresses, email addresses, contact details including phone numbers, organization and associations, URL(s) and IP addresses associated with email account `bsdqwasdg@gmail.com`, Telegram ID `github_hb`.

26. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with within one week from today.



27. In case any of the defendants have objection to the directions issued in this order, they shall file their reply within two (2) weeks of receipt of notice and/or copy of this order. Rejoinder, if any, within two (2) weeks thereafter.

28. List on 10.01.2025.

29. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 5, 2024/hp

Click here to check corrigendum, if any