NC: 2023:KHC:32611-DB
CCC No. 789 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2023

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

CIVIL CONTEMPT PETITION NO. 789 OF 2023

BETWEEN:

BODY CUPID PRIVATE LIMITED.,
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 2013, AND
HAVING ITS REGISTERED OFFICE AT 4TH FLOOR,
PRESTIGE DOTCOM,
FIELD MARSHAL CARIAPPA ROAD,
SRINIVAS NAGAR, SHANTHALA NAGAR,
ASHOK NAGAR BENGALURU 560 025.
KARNATAKA, INDIA,
THROUGH ITS DIRECTOR AND
ONE OF AUTHORISED SIGNATORY
MS. JYOTHI CHOWDARY
AGED ABOUT 69 YEARS
EMAIL INFO@BUYWOW.COM

...COMPLAINANT

(BY SRI. PRAMOD NAIR., SENIOR ADVOCATE FOR
SRI. ARJUN SANTHOSH.,ADVOCATE)

Digitally signed by SHARADA VANI B
Location: HIGH COURT OF KARNATAKA

AND:

MR. GAURAV BHADANI,
S/O NOT KNOWN TO COMPLAINANT
MAJOR BY AGE
HAVING HIS ADDRESS AT B2/3,
PRABHUNAGAR SOCIETY,
NEAR MAHADEV CHOWK,
SATELLITE ROAD, MOTA VARACHHA

SURAT 394 101, GUJARAT INDIA.

ALSO AT A/43 SIDHART NAGAR SOCIETY
SIMADA NAKA, SURAT 395 006.
GUJARAT, INDIA.
EMAIL INFO@BUYWAW.COM
SALE@BUYWAW.COM

…ACCUSED

THIS CCC IS FILED UNDER SECTIONS 11 AND 12 OF THE CONTEMPT OF COURTS ACT 1971, READ WITH ARTICLE 215 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO ALLOW THIS CONTEMPT PETITION AND CONSEQUENTLY INITIATE CONTEMPT PROCEEDINGS AGAINST THE ACCUSED AND PUNISH THEM UNDER THE PROVISIONS OF THE CONTEMPT OF COURTS ACT, 1971 FOR THE WILLFUL AND DELIBERATE DISOBEDIENCE OF THE ORDER PASSED IN W.P.NO.5925/2023 DATED 16.03.2023, EXTENDED ON 10.04.2023 AND FURTHER EXTENDED ON 18.07.2023 BY THIS HONBLE COURT.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

The Complainant is before this Court with a grievance that there is a willful disobedience of the order of this Court. In support of this grievance, learned counsel for the Complainant invited our attention firstly to an interim order dated 16.03.2023 passed by the learned Single

Judge, a copy of the same avails at Annexure-B. The relevant portion of the same reads thus:

> *"Issue emergent notice to the respondents.*
>
> *In the meanwhile, the respondent and all persons claiming through or under him or acting on his behalf or under his instruction, in any manner are restrained from using the mark 'WAW' and/or "WAW SKIN COSMO" and/or any other mark identical similar to the petitioner's "WOW SKIN SCIENCE", trade dress and registered design bearing No.318745-002 from manufacturing, selling, advertising, marketing exporting, directly and indirectly, impugned products similar to Petitioner through the domain www.buywaw.com or any other domain or e-commerce platforms, till the next date of hearing.*
>
> *Re-list on 10.04.2023".*

2. Subsequently the Petition itself came to be disposed off by another learned Single Judge on 18.07.2023. A copy of the order is produced at Annexure-C. The relevant portion of the ultimate order page Nos. 30 & 31 reads as under:-

> "*In the result, I pass the following order:*
>
> > "*a) The writ petition is disposed of.*

b) The Trial Court is directed to dispose ofI.A.No.2 filed by the plaintiff under Order 39 Rules 1 and 2 of CPC on or before completion of two months from the date of receipt of copy of this order.

c) The interim order granted by this Court on 16.3.2023 is extended till the disposal ofI.A.No.2 by the Trial Court.

3. Admittedly, the life of the interim order was extended till after the disposal of I.A.No.2 by the trial Court wherein it was pending. The Complainant himself happens to be the plaintiff in the subject suit. On being specifically asked, whether learned trial Judge was apprised of the direction for the disposal of the said I.A, he is not in a position to answer. Nothing about this is stated in the body of the complaint. He hastened to add that even the trial Court cannot proceed with the matter, since the same is liable to be transferred to this Court.

4. Considering both these submissions namely no such appraisal was made to the learned trial Judge about clause (c) of the above order of the learned Single Judge and that in the changed scenario i.e., in view of the

procedural rider the learned trial court may not be in a position to proceed with the suit itself and eventually the complainant has to approach this Court, we are of the considered opinion that the complaint of Contempt filed in this Court is misconceived, the same being on erroneous assumption & presumption, and therefore, the same cannot be entertained.

Accordingly the Complaint of Contempt being thoroughly devoid of merits deserves to be and accordingly is dismissed.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

Bsv
List No.: 1 Sl No.: 5