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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO.21456 OF 2024
IN
COM IPR SUIT (L) NO.21111 OF 2024

National Stock Exchange of India Ltd.

...Applicant /
Plaintiff

Versus

Meta Platforms, Inc. & Ors.

...Defendants

Dr. Birendra Saraf, Senior Counsel with Rohan Savant, Janay Jain,
Monisha Mane, Bijal Vora and Manasi Desai i/b. Parinam Law
Associates for the Applicant / Plaintiff.

Kingshuk Banerjee and Ritvik Kulkarni i/b. Khaitan and Co. for the
Defendant No.5.

CORAM : R.I. CHAGLA J.

DATE : 16TH JULY, 2024.

ORDER :

1. This Interim Application has been circulated on the ground of urgency viz. that the Defendant Nos. 1 to 6 - social media intermediaries have featured fabricated video of Mr. Ashishkumar Chauhan, the Managing Director and Chief Executive Officer of the Plaintiff generated using sophisticated AI technology to imitate the

voice and facial expressions. The Plaintiff accordingly seeks an order against Defendant Nos.1 to 6 inter alia for taking down and removal of these unauthorised videos. Further, the unknown perpetrators who are joined as Defendant Nos.7 and 8 are alleged to be infringing as well as passing of the Plaintiff's trade mark by wrongful circulation and / or publication of false and misleading advertisements on social media platforms owned and purported by Defendant Nos.1 to 6. The Plaintiff has accordingly sought further order directing the Defendant Nos.1 to 6 inter alia to take down and remove the Plaintiff's marks on their social media platforms.

2. The Plaintiff is a first level market regulator with the authority delegated to it by Securities and Exchange Board of India ('SEBI'). As a front-line regulator and a critical and leading MII, the Plaintiff governs brokers / trading members as well as listed companies and ensures that their functions and operations are conducted within the framework of the Bye-Laws, Rules, Regulations and Circulars ('**regulatory framework**') that are issued from time to time that carry statutory force. The Plaintiff plays a vital role in India's financial landscape. It serves as a crucial platform for investors to trade in securities and for wealth creation. It further

serves as a platform for companies to raise capital. The Plaintiff is fully automated electronic exchange that facilitates trading in various financial instruments like equity shares, derivatives, bonds, exchange traded funds(ETFs), tax free bonds, Gold ETF mutual funds.

3. The Plaintiff operates on a robust and technologically advanced trading platform and uses National Exchange for Automated Trading (hereinafter “**NEAT**”) for trading of securities. NEAT is a fully automated screen-based system for trading and provides investors with efficient and transparent trading opportunities. The Plaintiff, as on 30th April 2024, has approximately 2500 listed companies registered on its platform with a market capitalization of listed companies on Plaintiff’s platform to \$ 5 trillion as of May 2024. Further, as on 31st May 2024, the Plaintiff possesses a registered investor base of 9.5 crore unique investors directly investing with the Plaintiff’s 1300 registered trading members, that is, stockbrokers.

4. The Plaintiff is the registered proprietor of the word mark “NSE” under classes 9, 16, 35, 36, 41 and 42. The registration certificates in respect thereof are at Exhibits A-1 to A-6. The Plaintiff

is also the registered proprietor of the device mark “NSE” under classes 9, 16, 35, 36, 41 and 42. The registration certificates in respect thereof are at Exhibits B-1 to B-7. Owing to the immense goodwill, global recognition and popularity amassed by the Plaintiff over the decades, the Plaintiff has applied to be recognised as a well-known mark vide application dated 28th September 2020. The said Application has been published on satisfying the eligibility criteria and the Plaintiff is awaiting recognition of being included in the list of well-known marks in India. Notwithstanding the same, it is asserted that on account of the extensive use of the mark “NSE”, its association with the stock exchange, which is one of the largest and leading stock exchanges of the world, the Plaintiff has achieved the status of well-known mark.

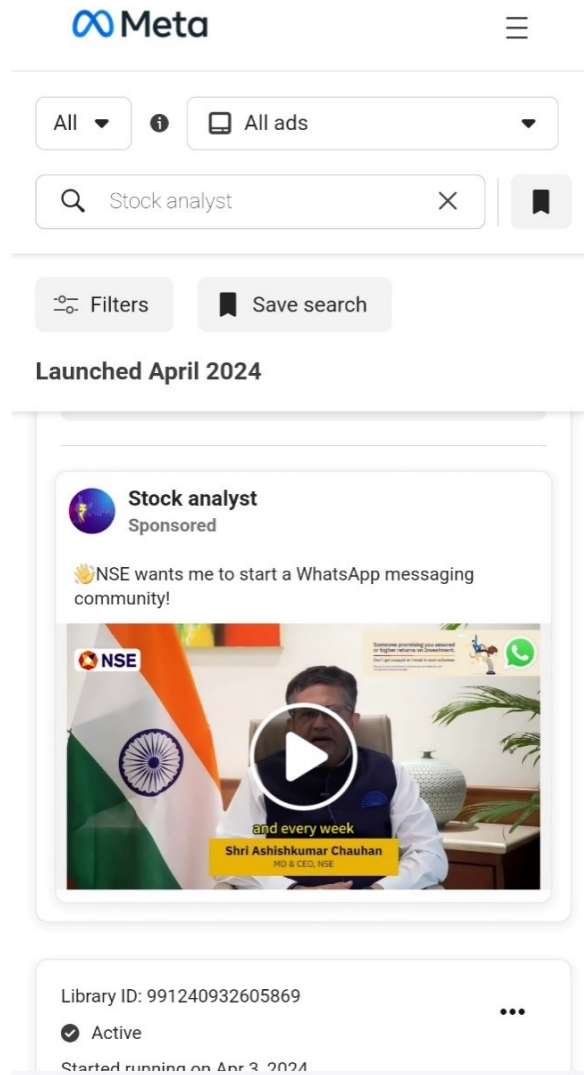
5. It has recently come to the attention of the Plaintiff’s Cyber & Information Security Team (hereinafter “**CIS Team**”) as on 3rd April 2024 that some individuals and/or entities have been engaged in fraudulent activities by publishing false messages and videos on the social media platforms such as Facebook, which is owned, operated and controlled by Defendant No. 1. These videos were uploaded as advertisements on Facebook by a page named

“Stock Analyst”. The initial video (hereinafter “**the First Fake Video**”) features the Plaintiff’s trademark being depicted and infringed at the top left corner suggesting that the First Fake Video is associated with and being endorsed by the Plaintiff. The First Fake Video further features the MD & CEO of the Plaintiff, using his AI generated likeness, which is colloquially referred to as “Deepfake” which uses sophisticated technologies to imitate the voice and facial expressions of the MD & CEO. In the First Fake Video, an AI generated replica of the MD & CEO of the Plaintiff can be seen as allegedly persuading the common investors to Join a WhatsApp Community for stock picking. The video further states that the professional analysis team of the Plaintiff will purportedly recommend 3 (Three) carefully selected stocks every week and shall teach the common investors how to pick stocks for the purpose of monetary gains. The transcript of the First Fake Video is reproduced hereunder:

“NSE wants me to build a WhatsApp communication community because many people don’t know how to pick stocks and just follow the trend. But investing is not gambling. At present our community has been established. We have a professional analysis team and successful experience. Our topics include stocks, currency, gold and foreign exchange market analysis. I believe you can gain a lot from it and every week I will launch 3 carefully selected stocks, stock picks to help

you make smart choices. Note it's free to join us. I'm waiting for you in the WhatsApp group."

The screenshot of the First Fake Video is as follows:



6. The Plaintiff's CIS Team came across another Facebook page named "The Sky of the Stock Market" which had published a false advertisement showcasing another deepfake video of the MD

& CEO of the Plaintiff (hereinafter “**the Second Fake Video**”). Similar to the First Fake Video, the Second Fake Video falsely promotes the WhatsApp Community for stock picking allegedly being initiated and operated by the Plaintiff and encouraging the viewers to join the same. In addition to the reproduction of script from the First Fake Video, the Second Fake Video goes to the extent of stating that the investors will receive full reimbursement from the Plaintiff for the losses incurred by them if they exercise diligence in following the recommendations. The transcript of the Second Fake Video has been reproduced as under:

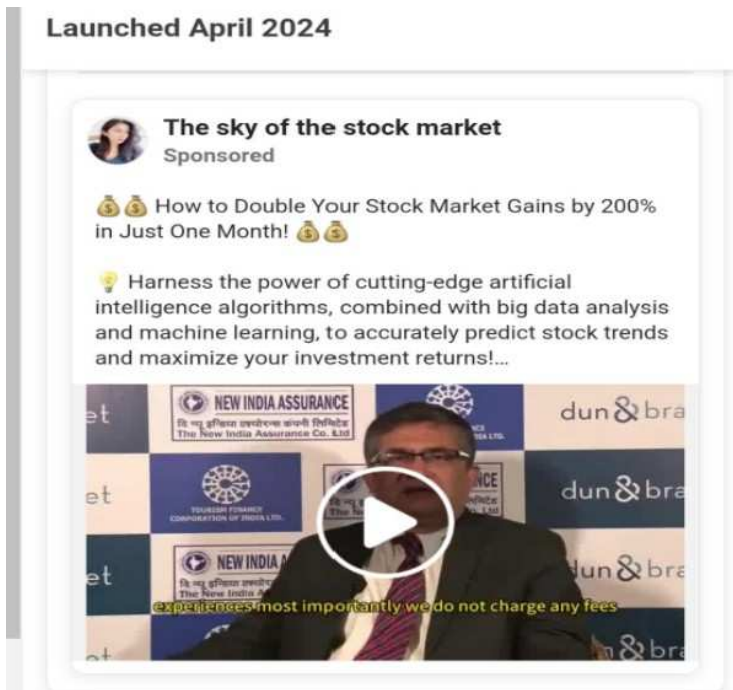
“Many people don’t know how to choose stocks and just follow the trend. But investing is not gambling. If you want to shine in the stock market and achieve more returns, so you must remember these four points:

- 1. Less trading*
- 2. Less decision making*
- 3 . Less pressure*
- 4. Make more money*

Trading and decision making are more important. If you don’t have much time to consider these and can’t grasp a good entry point, then join our community. We have a professional analysis team to assist you as well as investors who make a lot of money to share their experiences. Most importantly,

we do not charge any fees. Every week we present three carefully selected stocks. We offer full reimbursement for any losses incurred only if you execute with diligence. Our goal is to expand the influence of our team.”

The screenshot of the Second Fake Video is as follows:



7. Upon discovering the Fake Videos and further investigating the same, the Plaintiff's CIS Team noticed that the concerned Facebook pages enclosed links to other websites. For instance, the link enclosed on the Facebook page named "Stock

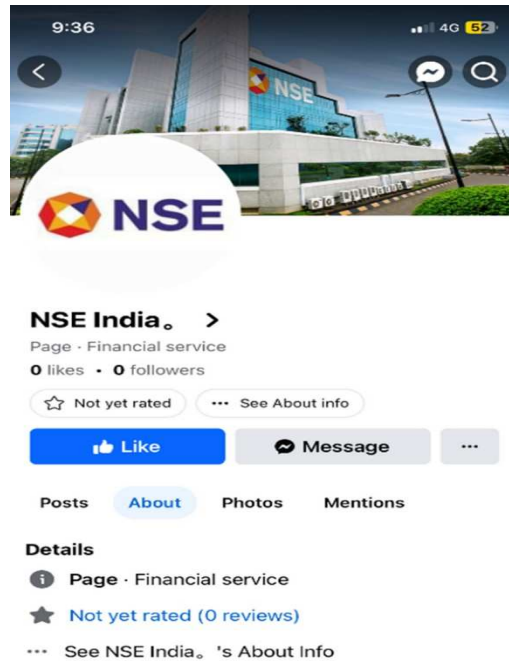
Analyst” redirected the user to another website entitled “dlyndfibb.top” which further enclosed links to join the messaging application named “LINE”, which is owned, operated and controlled by the Defendant No. 6. The Plaintiff also noticed that the aforementioned Facebook advertisements were being circulated on Instagram as Facebook advertisements by a page named “Manuel Dan Cann”.

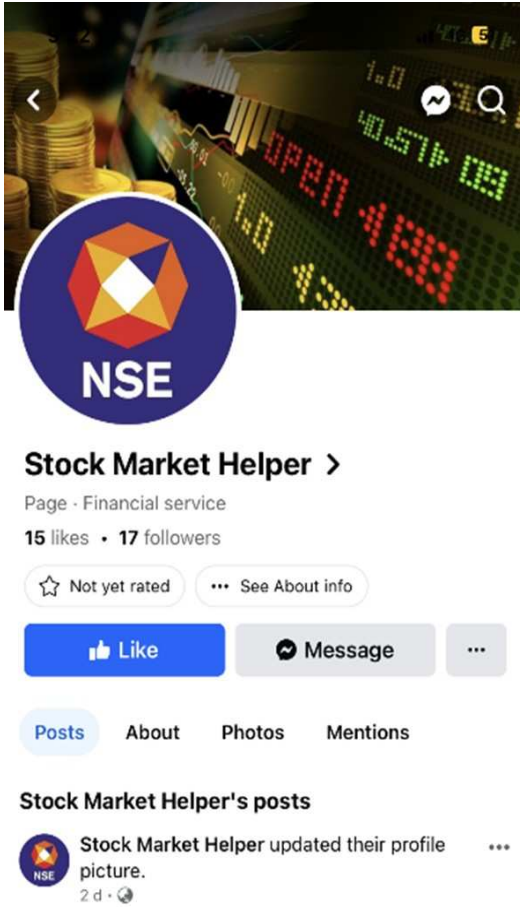
8. The Plaintiff’s CIS Team further came across other Facebook pages, for example, the Facebook page named “Quantae Valencia” which were actively involved in the publication and/or circulation of the false and misleading advertisements featuring the Fake Videos. The Plaintiff further discovered several other Facebook pages such as “NSE Stock Market”, “NSE India”, “Stock Market Helper”, “Stock Analyst”, “Stock Analyst2”, “Stock Analyst3”, “Stock Analyst4” and “Stock analyst5” in all of which the unknown perpetrators were making unauthorized and illegal use of the Plaintiff’s trademark by displaying it as the profile picture and illicitly misleading and defrauding the viewers into believing that the said pages were operated by the Plaintiff or that the contents thereof were endorsed by the Plaintiff. An illustration of the list of Facebook pages which were unauthorizedly using the

Plaintiff's registered trademark has been enclosed hereunder:

Sr. No.	Particulars	Reported Date	Takedown Date
1	Stock Market Helper Page Link: https://www.facebook.com/share/q2XLS4rvK4SEhV9o	21.06.2024	Subsequent to the filing of the Suit this page was taken down.
2	NSE India Page Link: https://www.facebook.com/profile.php?id=61559561446703	26.06.2024	Subsequent to the filing of the Suit this page was taken down.
3	NSE India Page Link: https://www.facebook.com/profile.php?id=61552376407265 Phone No: +1(844) 631-5317	08.06.2024	18.06.2024
4	NSE Stock Market Page Link: https://www.facebook.com/profile.php?id=61551853030008	13.05.2024	13.05.2024
5	Stock Analyst Page Link: https://www.facebook.com/profile.php?id=61553203661590	16.04.2024	02.05.2024
6	Stock Analyst2 Page Link: https://www.facebook.com/profile.php?id=61553336796263	16.04.2024	02.05.2024
7	Stock Analyst3 Page Link: https://www.facebook.com/profile.php?id=61553347805609	16.04.2024	02.05.2024
8	Stock Analyst4 Page Link:	16.04.2024	02.05.2024

	https://www.facebook.com/profile.php?id=61553408702995		
9	Stock Analyst5 Page Link: https://www.facebook.com/profile.php?id=61553441522978	16.04.2024	02.05.2024
10	Stock analyst Page Link: https://www.facebook.com/profile.php?id=100079936213589	16.04.2024	18.04.2024
11	Stock analyst Page Link: https://www.facebook.com/profile.php?id=61550548864684	16.04.2024	02.05.2024





9. On 4th April 2024, the Plaintiff’s CIS Team was informed that a similar video as the First Fake Video was being circulated on a WhatsApp Group named “(9Rajiv Jain) Learning Communication Group”, having a total of 175 (One Hundred and Seventy-Five) members associated with the group along with 6 (Six) administrators with the same profile picture and with Indian Mobile Numbers. The screenshots of the group description and the details regarding the same are at Exhibit I1-I4 of the Plaint. The administrators of this group have been arrayed as Defendant No. 8

in the Suit.

10. The Plaintiff also came across various Telegram Channels, which falls within the exclusive dominion of the Defendant No. 5. These Channels have been fraudulently named as “National Stock Exchange” with slight variations in the names being “National Stock Exchange of India” or “National Stock exchange”. Some unknown perpetrators were engaged in recommending stock picks on a daily basis in the name of the Plaintiff, thus creating the impression that the Plaintiff has allegedly endorsed the recommendations. Any innocent investor may join the Telegram Channel, believing the Channel to be legitimate and could potentially fall prey to the illicit scheme adopted by the various unknown perpetrators in attempting to manipulate the market.

11. In order to curb the nuisance posed by the false and misleading advertisements and Facebook pages misguiding and defrauding the innocent investors, the Plaintiff’s representative lodged FIR No. 88 of 2024 dated 5th April 2024 with the Cyber Police, Bandra Kurla Complex, inter alia, registering a complaint based on the aforementioned premise in relation to the Fake Videos and calling upon the Cyber Police to investigate the

matter and take necessary actions in identifying the culprits and avoiding further publication of the Fake Videos. Simultaneously, the Plaintiff also addressed its letter dated 5th April 2024 to the Sr. Inspector of Police, Western Region, Cyber Police Station, Bandra Kurla Complex complaining regarding the wrongful actions committed against the Plaintiff as well as its MD & CEO by certain unknown persons under the relevant provisions of the Indian Penal Code, 1860 and Information Technology Act, 2000 regarding, inter alia, fraud, defamation and illegal impersonation of MD & CEO of the Plaintiff.

12. The Plaintiff also addressed its letter dated 22nd April 2024 to the Defendant No. 2, inter alia, requesting the Defendant No. 2 to filter and/or identify the publication of the Fake Videos of MD & CEO of the Plaintiff through various advertisements and/or pages on Facebook. The letter also provided an indicative list of URLs linked to the false and misleading advertisements identified by the Plaintiff. The Plaintiff also issued a Press Release dated 10th June 2024, cautioning the investors regarding the circulation of the Fake Videos of the MD & CEO of the Plaintiff recommending stocks. The Press Release unequivocally stated that any official communication is made by

the Plaintiff only through its official website and through its authorized social media handles.

13. In the fabricated videos, the perpetrators have made unauthorized use of the Plaintiff's trademark being "NSE" (hereinafter "**Plaintiff's trademark**") in the false and misleading advertisements to misrepresent and defraud the viewer so as to create an impression in their minds that the contents of the videos are being published and/or endorsed by the Plaintiff. Further, this also violates the personal and individual rights of the Plaintiff's MD & CEO, since in the videos the MD & CEO of the Plaintiff can be seen as recommending the viewers to join the WhatsApp Community where the Plaintiff would allegedly recommend stock picks. The videos further assure full reimbursement by Plaintiff of losses caused to investors executing the suggested trades with diligence. This deceptive behavior of the violators is capable of manipulating the markets and thereby resulting in unfair trade practices as well as violation of various SEBI regulations enacted from time to time. The Plaintiff is further seeking the removal, deletion and taking down of Facebook pages making unauthorized usage of the Plaintiff's trademark "NSE" thereby infringing the same and passing off the Facebook page as being operated and/or

endorsed by the Plaintiff.

14. It is submitted that the illegal acts complained of consist of wrongful circulation and/or publication of false and misleading advertisements on social media platforms owned, operated and controlled by Defendant Nos. 1 to 6 featuring fabricated videos of the MD & CEO of the Plaintiff generated using sophisticated AI technology to imitate the voice and facial expressions.

15. The aforesaid illegal acts have severe consequences to the fair, efficient and equitable securities market ecosystem endeavoured to be maintained by the Plaintiff. It is submitted that the continued circulation and/or publication of the false and misleading advertisements depicting the Plaintiff's trademark and featuring the Plaintiff's MD & CEO as well as the creation of false Facebook profiles / pages will have disastrous consequences on the plight of innocent investors, who believing the Fake Videos to be legitimate would be deprived of their hard-earned money. The ramifications of the continual illegal acts by the Defendants are far reaching and its repercussions will ripple through the foundation of the Indian economy. Therefore, an urgent intervention by this Hon'ble Court is necessary to protect the plight of the innocent

investors and safeguard their rights and interests.

16. It is submitted that if such illegal and infringing actions are allowed to be continued, it will further result in immense financial and reputational loss to the Plaintiff and hamper its standing as the front-line market regulator. Considering the national importance of the services provided by the Plaintiff, by way of the present Suit, the Plaintiff is seeking proactive orders to safeguard its trademark and to mitigate the substantial and potential monetary loss, which it may suffer along with loss of reputation and goodwill being caused to the Plaintiff, through the illegal acts by many presently unknown persons.

17. It is submitted that as soon as the Plaintiff's representatives came across any such false advertisements, for upholding and protecting the integrity of the market and for ensuring that no innocent investor falls in the trap and loses their hard-earned money to these tricksters, immediately reported the same to its vendor who would raise a grievance with concerned officials of Defendant No. 1 and consequently the advertisement were removed.

18. It is however submitted that the said course is extremely time-consuming and impracticable in the long run as

during the period in which the fake videos are in circulation, there is likelihood of grave and irreparable injury as several investors may act upon the false information contained in the fake videos or in the websites, groups or channels mentioned in the advertisements containing the fake videos. The time taken by Defendant Nos. 1 to 5 is of utmost importance as information in relation to the markets is extremely time sensitive and investors are likely to act upon the same instantly.

19. It is also submitted that there is a time lag of approximately 5 (Five) to 15 (Fifteen) days between the time when the fake advertisement is reported till the time when it is finally taken down by the social media intermediary. In a few cases, it is more than 17 days. This is apparent from the sheet annexed at Exhibit X (page nos. 230 – 232). Such a delay is sufficient for the perpetrators to dupe several innocent investors of their hard-earned money.

20. Notwithstanding the aforementioned actions taken by the Plaintiff in identifying and restricting the publication and/or circulation of the false and misleading advertisements, the social media intermediaries have failed and/or neglected to prevent the continued circulation of the infringing content in consonance with

its obligations under the applicable rules and regulations in relation to social media intermediaries. The unknown Defendant Nos. 7 and 8 continue to publish and/or circulate the false and misleading advertisements and create fake profiles / pages on Facebook intended at malafidely misguiding the innocent investors and duping them of their hard-earned money. Several such Facebook pages are active till date and continue to publish and/or circulate the advertisements containing the Fake Videos, a list whereof has been provided hereunder:

Sr. No.	Particulars	Status
1	Ufo-0202-C3 Link to Page: https://www.facebook.com/pro_____file.php?id=100072058567501	Active
2	Ula Perkin 1 Link to Page: https://www.facebook.com/profile.php?id=61557520348930	Active
3	Brian Frank 2 Link to Page: https://www.facebook.com/pro_____file.php?id=61558233970217	Active
4	Karen Tom 4 Link to Page: https://www.facebook.com/pro_file.php?id=61557889223507	Active
5	Sarah Sarah Jason	Active

	Link to Page: https://www.facebook.com/pro file.php?id=61553203431788	
6	Gwyu-1 Link to Page: https://www.facebook.com/pro file.php?id=61559863505527	Active
7	Matthew Alvarez Jr Link to Page: https://www.facebook.com/pro file.php?id=61552690073587	Active
8	Quantae Valencia https://www.facebook.com/pro file.php?id=100086435575835&mibe xtid=LQQJ4d	Active
9	Bartholomew-2 https://www.facebook.com/pro file.php?id=61552533630259& mibextid=LQQJ4d	Active
10	Bartholomew-4 https://www.facebook.com/pro file.php?id=61552579017745& mibextid=LQQJ4d	Active

21. It is submitted that apart from the complaints and reporting done by the Plaintiff, it is the duty of intermediaries such as Defendant Nos. 1 to 6 to carry out due diligence and maintain vigilance on their own accord. Such duty is cast upon the intermediaries in terms of the Information Technology Act, 2000, the Information Technology, Intermediary Guidelines and Digital Media Ethics (Code) Rules 2021 (for Short “IT Rules”) and the advisory issued by the Union Government to social media

intermediaries to identify misinformation and deepfakes (“**Deep Fake Advisory**”). The timelines contained in Rule 3 (1) (b) and Rule 3(2) as well as the Deep Fake Advisory are advisory in nature and considering the issue involved being of national importance and affecting the members of the public at large, Defendant Nos.1 to 6 ought to act with extreme urgency to remove the unauthorized content at the earliest and not later than 10 hours.

22. It is submitted that such unknown persons have also committed infringement of trademark and passing off by using the Plaintiff’s registered trademark “NSE” and/or trademarks deceptively similar to the same by making Facebook accounts, pages, telegram channels, by unauthorizedly using the Plaintiff’s trademark “NSE”. Such pages and channels have been identified at Exhibit Q-1-Q5, R, V, W-1-W3 and Z1-Z9 to the Plaintiff.

23. It is submitted that in order to facilitate Defendant Nos.1to 6 to remove/ delete/take down/disable the unauthorized and misleading content on the web pages of the Defendant Nos. 1 to 6, the Plaintiff shall address all correspondence from a designated email address of their representative being cdc@nse.co.in.

24. The Plaintiff is not aware of the identity of such

persons. The acts of violation have been committed on the platforms belonging to Defendant Nos. 1 to 6 and Defendant Nos. 1 to 6 would have the relevant information with respect to the violators. Defendant Nos. 1 to 6 ought to be directed to provide the relevant information to the Plaintiff in respect of such persons in terms of prayer clause (f) of the present Interim Application.

25. Mr. Kingshuk Banerjee, the learned Counsel appearing for the Defendant No.5 has tendered preliminary Reply to the Interim Application dated 13th July, 2024. In the said Preliminary Affidavit in Reply, the Defendant No.5 has agreed to comply with the IT Rules.

26. Mr. Banerjee has however, submitted that he cannot undertake any adjudicatory or censorial function in identifying content that infringes the Plaintiff's intellectual property rights.

27. Dr. Birendra Saraf, the learned Senior counsel appearing for the Plaintiff has tendered Affidavit of Service dated 16th July, 2024 which shows that the Defendant / Respondent Nos.1 to 6 have been served with the papers and proceedings and intimated of today's listing by email. In so far as Defendant /

Respondent No.8 is concerned which is a WhatsApp Group named (9Rajiv Jain) Learning Communication Group, three out of the six administrators of the said Group have been served. The remaining three members could not be served as the same are no longer available on the WhatsApp. The Affidavit of Service is taken on record. Other than Defendant No.5 who is represented by Counsel, the other Defendants inspite of service have remained absent today.

28. Dr Saraf has referred to the relevant provisions of the IT Rules and in particular Rule 3 (1) - due diligence by an intermediary and which provides under Rules 3 (1) (b) for reasonable efforts to be taken to not host, display, upload, modify, publish, transmit, store, update or share any information that inter alia belongs to another person and to which the user does not have any right; infringes any patent, trademark, copyright or other proprietary rights and deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any misinformation or information which is patently false and untrue or misleading in nature. Further, it is provided that the intermediary shall remove or disable access to

that information, as early as possible, but in no case later than thirty six hours from the receipt of the Court order or on being notified by the Appropriate Government or its agency, as the case may be. Further, under Rule 3 (2), there is a Grievance Redressal Mechanism of intermediary provided and that the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the name of the Grievance Officer and his contract details as well as mechanism by which a user or a victim may make complaint against violation of the provisions of this Rule or any other matters pertaining to the computer resources made available by it, and the Grievance Officer shall acknowledge the complaint within twenty four hours and resolve such complaint within a period of fifteen days from the date of its receipt.

29. Dr. Saraf has submitted that inspite of complaints being made by the Plaintiff to the Defendant Nos.1 to 6 – intermediaries no prompt action has been taken by Defendant Nos.1 to 6. In certain cases, though reported complaints were made, these complaints were addressed by removing the infringing material after a period of 17 days. This is contrary to

the aforementioned IT Rules which provide for prompt action to be taken by the intermediaries.

30. Dr. Saraf has submitted that the videos being circulated on social media platforms owned and controlled by Defendant Nos.1 to 6 are fake and fabricated. Such videos do not originate from the Plaintiff, but from third parties who have violated the Plaintiff's Intellectual Property Rights. The MD & CEO of the Plaintiff has never resorted to engaging in any WhatsApp Community through the means of the Fake Videos or through any other social media platforms. The infringing actions of third party entities has evidently causing irreversible harm to the interests of not just the Plaintiff but also it will severely jeopardise the fairness, equity and transparency of the Capital Market Ecosystem of the country and hence will be detrimental to the interests of the population and the economy of the country at large. He has further submitted that offending videos caused irreparable harm and injustice to the investors and public at large who may rely on the misinformation being spread by these unknown persons. He has submitted that though offending videos which have been circulated have been removed, there is apprehension that similar

fake and fabricated videos will be circulated on the social media platforms owned and / or control by Defendant Nos.1 to 6.

31. Dr. Saraf has submitted that the circulation of such fake videos as advertisements on facebook and other social media platforms and infringement of Plaintiff's trade mark has become so widespread and continuing repeatedly that it is becoming impossible for the Plaintiff to track such illegal and unauthorized activities and such actions are not only causing damages to the Plaintiff and its reputation but also to the public at large. He has submitted that Defendant Nos.1 to 6 being owners and operators of social media platforms possess the requisite dominion for restricting the circulation of the fake videos and infringement of Plaintiff's trademark. He has submitted that aforementioned Rule 3(1) of the IT Rules, requires the concerned social media intermediary to exercise due diligence and undertake reasonable efforts by itself and to cause the users not to host, display, modify, publish, transmit, store, update or share any information which deceives or misleads the addressee or impersonates another person.

32. Dr. Saraf has further submitted that in view of illegal activities of fraud undertaken by certain unknown persons in creating dubious Facebook pages and circulating the false and misleading advertisements while maintaining complete anonymity, the Plaintiff is entitled to reliefs based on general orders, commonly referred to as the 'John Doe' doctrine / precedent / principle, which has been arrayed as Defendant No.7. He has submitted that the primary objective of such orders is to curtail such illegal acts and violations by unknown persons which operate as an order in rem against general public.

33. Dr. Saraf has referred to the decision of the Delhi High Court in ***Aaradhya Bachchan and Anr. Vs. Bollywood Time and Anr.***¹ where the Court has examined Rule 3(1) (b) of the IT Rules and in a similar situation as in the present case, where there were offending videos the Court has restrained the concerned social media platforms from disseminating or further transmitting the videos relating to the URLs. He has also referred to the decision of this Court in ***UTI Infrastructure Technology and Services Ltd. Vs. Extra Tech World and Ors.***², wherein this Court

¹ 2023 SCC OnLine Del 2268.

² IA (L) No.564 of 2024 in COMIP Suit (L) No.537 of 2024 dated

has directed the deletion of unauthorized domains and / or websites on which unknown persons / entities engage in fraudulent activity of imitating the Applicant and its marks. He has also referred to recent decision of the Delhi High Court in **X Vs. Union of India and Ors.**³ which has held that search engines cannot hide under the garb of not possessing the adequate technology to remove offending content.

34 Dr. Saraf has accordingly sought for relief to be granted restraining the Defendant Nos.7 and 8 from unauthorized use of the trade mark of the Plaintiff on dubious webpages and/or profiles, accounts and/or advertisement and/or videos and/or contents and/or social media groups more particularly mentioned in the Plaint

35. Having considered the submissions as well as noting the relevant IT Rules and in particular Rule 3 (1) of the IT Rules which provides for due diligence by an intermediary to make reasonable efforts to not host, display, upload, modify, publish, transmit, store, update or share any information which inter alia

12th January, 2024.

³ 2023 SCC OnLine Del 2361.

belongs to another person and to which the user does not have any right: infringes any patent, trademark, copyright or other proprietary rights and deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any misinformation or information which is patently false and untrue or misleading in nature and / or violates any law for the time being in force. Further, the intermediary shall remove or disable access to that information as early as possible but in no case later than thirty six hours from the receipt of the Court or on being notified by the Appropriate Government or its agency, as the case may be. Thus, the Defendant Nos. 1 to 6 who are the intermediaries are mandated by the IT Rules to take prompt action on the complaints received from entities such as the Plaintiff of their rights being violated by the unauthorized user of the Plaintiff's trade mark on dubious webpages and / or profiles, accounts and/or advertisement and/or videos and/or contents and/or social media groups, more particularly mentioned in the Plaintiff.

36. The Plaintiff has also been filed against Defendant No.7 as John Doe as the Plaintiff is unable to identify the persons

who have created dubious Facebook pages and circulating which in my prima facie view are false and misleading advertisements while maintaining complete anonymity.

37. Accordingly, the Plaintiff has made out a strong prima facie case for grant of ad-interim relief sought not only against the Defendant Nos.1 to 6 who are intermediaries but also against Defendant No.7 who has been joined as John Doe and Defendant No.8 for infringing the Plaintiff's rights.

38. The decisions relied upon by Dr. Saraf support the view that the IT Rules and in particular Rule 3 (1) mandate the Defendant Nos.1 to 6 - intermediaries to take prompt action for preventing such infringement of the Plaintiff's rights on their social media platforms.

39. 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.

40. In that view of the matter, ad-interim relief is

granted in terms of prayer Clauses (a), (b), (c), (e), (f) and (g)

including addition in brackets and which read thus:-

(a) Pending the hearing and final disposal of the captioned Suit, the Defendant Nos. 7 and 8, their directors/ proprietor/ partners, their principals, employees, agents, distributors, franchisees, representatives, assignees and/ or any other person claiming through them are hereby restrained from infringing the Plaintiff's registered trademark "NSE" by making/ creating / publishing / uploading / circulating and reproducing content depicting the use of any trademark that is identical and/or that is deceptively similar and/ or substantial reproduction of the Plaintiff's trademark "NSE" or of any like nature in any medium/form including television, print media and/or the internet and/or in any manner whatsoever;

(b) Pending the hearing and final disposal of the captioned Suit, the Defendant Nos. 7 and 8, their directors/ proprietor/ partners, their principals, employees, agents, distributors, franchisees, representatives, assignees and/ or any other person claiming through them are hereby restrained from passing off the Plaintiff's registered trademark "NSE" and/or words and/or use of a mark that are identical and/or deceptively similar to the Plaintiff's trademark and further restraining the Defendant Nos. 7 and 8 from misleading/ misrepresenting to any person that they have any association with the Plaintiff and/ or its business activities in any manner whatsoever;

(c) Pending the hearing and final disposal of the captioned Suit, the Defendant Nos. 7 and 8 their directors/ proprietor/ partners, their principals, employees, agents, distributors, franchisees,

representatives, assignees and/ or any other person claiming through them are hereby restrained from making/ creating / publishing / uploading / circulating and reproducing the Fake Videos or content or videos similar/deceptively similar to Fake Videos or of any like nature in any medium/form including television, print media and/or the internet and/or in any manner whatsoever.

(e) Defendant Nos. 1 to 6, their directors/ proprietor/ partners, their principals, employees, agents, distributors, franchisees, representatives and assigns are hereby directed to act within (10) hours (and not exceeding 14 hours) of receiving complaint from the Plaintiff and accordingly:

(i) Remove/ delete/ take down/ disable the unauthorized and misleading the dubious pages and/ or profiles and accounts and/or advertisement and/or videos and/or contents and/or social media groups and/or channels more particularly mentioned under Exhibits G-1- G-4, I-1 to I-4, S-1- S-6 -, V, W-1- W-3, Y-1 -Y-10 and Z1 -Z-9 to the Plaint on the domains and/ or websites and/or social media platforms owned, operated and controlled by Defendant No. 1 to 6;

(ii) Remove/ delete/ take down/ disable the unauthorized and misleading advertisements depicting the Fake Videos on the domains and/ or websites and/or social media platforms owned, operated and controlled by Defendant No. 1 to 6 on being informed of the same by the Plaintiff through its email address cdc@nse.co.in; and

(iii) Remove/ delete/ take down/ disable the dubious pages and/ or profiles and accounts and/or videos and/or contents and/or social media groups and/or

channels circulating and/ or publishing Fake Videos on the domains and/ or websites and/or social media platforms owned, operated and controlled by Defendant Nos. 1 to 6 within 10 (Ten) hours (and not exceeding 14 hours) of the report being sent by the representatives of the Plaintiff;

“(f) Defendant Nos. 1 to 6 are directed to disclose on affidavit before this Hon’ble Court, all details including their name, address, email address, contact details, organization and associations, URL etc. of known and unknown perpetrators arrayed as Defendant Nos. 7 and 8, who are involved in publishing the Fake Videos and videos and content similar to Fake Videos/ or use of the Plaintiff’s registered trademark “NSE” and/or words and/or use of a mark that are identical and/or deceptively similar to the Plaintiff’s trademark “NSE” on the social media platforms owned and/or operated by Defendant No. 1 to 6;”

g) An order directing the concerned police station(s)/ Cyber Crime Departments/ to render necessary assistance to the Plaintiff in restraining Defendant Nos. 7 and 8 from infringing the Plaintiff’s trademark, passing off of the marks and circulating and/or publishing the false and misleading advertisements featuring the Fake Videos and/or videos similar to Fake Videos;”

41. The Defendant Nos.1 to 6 shall file their Affidavits of Disclosure including the disclosures in terms of prayer Clause (f) and in addition disclosing the mechanism at their disposal to comply with Rule 3 of the IT Rules. The Affidavits of Disclosure shall be filed within a period of three weeks from the date of this

Order.

42. The Advocates for the Plaintiff shall serve notice of this Order on the Defendants, other than Defendant No.5 who is represented by Counsel, forthwith and file Affidavit of Service prior to the next date.

43. The Plaintiff is at liberty to file Affidavit in Rejoinder to the Affidavits of Disclosure filed by the Defendants within a period of one week from being served.

44. Interim Application shall be placed for further consideration on 19th August, 2024.

[R.I. CHAGLA J.]