



2024:DHC:10008



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

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*Judgment delivered on: 24.12.2024*+ **C.S. (OS) 1011/2024****CIGMA EVENTS PRIVATE LIMITED**

.....Plaintiff

Through: Mr. Manish Kumra, Mr.  
Piyush Kaushik, Ms. Aparajit  
Jha and Mr. Rohit Dhiman,  
Advocates

Versus

**DEEPAK GUPTA & ORS.**

.....Defendant

Through: Mr. Sahil Sharma, Advocate  
for D-2 to D-6.

**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.****I.A. 48682/2024 (Application under order XXXIX rules 1 & 2 read with section 151 CPC)**

1. The present application under Order XXXIX Rule 1 and 2, read with Section 151 of the Code of Civil Procedure, 1908 [hereafter '*CPC*'] has been filed on behalf of the applicant/ plaintiff herein, seeking grant of ad-interim *ex-parte* injunction in favour of the plaintiff and against the defendants.



## FACTUAL CONTEXT

2. Briefly stated, the facts of the present case as set out in the plaint and the present application are that the Plaintiff is a company registered under the Companies Act, 1956, with its registered office at 5, Ground Floor, Gorishanker Market, Pant Nagar, New Delhi-110014. The Plaintiff is engaged in the business of event management services, providing end-to-end corporate event solutions, including air tickets, transportation, branding, and activation services, among others. Over the years, the Plaintiff has managed events for prominent clients such as Intel, Oracle, HP, and the Taj Group, establishing itself as a reputed name in the event management industry.

3. The Plaintiff alleges that Defendants Nos. 1 to 4, who were its former employees, acted in collusion with Defendants Nos. 5 and 6, i.e. the entities incorporated by Defendants Nos. 2 to 4 during their employment with the Plaintiff, to hijack its business and clientele. Defendant No. 1 Sh. Deepak Gupta, employed by the Plaintiff from 2017 to September 2020, subsequently started his own event-related business and became a key vendor for the Plaintiff. Defendant No. 2 Sh. Harshdeep Saini, Defendant No. 3 Mohd. Sazid Khan and Defendant No. 4 Smt. Giggan Saini senior held positions within the Plaintiff's company, with Defendant No. 2 also serving as an Additional Director. They abruptly resigned on June 21, 2024, without providing reasons, despite requests from the Plaintiff's Managing Director to reconsider the same.

4. The Plaintiff alleges that after their resignations, Defendants Nos. 2 and 3 engaged in competing business activities and diverted



business opportunities from the Plaintiff. For instance, the Plaintiff discovered that Defendant No. 3 had organized an event for its client, I-Ten Media Private Limited, involving revenue of ₹10,00,000/- and another event previously managed by the Plaintiff worth ₹30,00,000/-. Moreover, Defendant No. 1 allegedly submitted highly inflated bills with the collusion of Defendants Nos. 2 to 4. Upon withholding payment after scrutiny, Defendant No. 1 approached Oracle India Pvt. Ltd., a major client of the Plaintiff, creating undue pressure on the Plaintiff to settle the matter.

5. It has also been alleged by the plaintiff herein that Defendants Nos. 2 to 4 incorporated competing entities, Defendants Nos. 5 and 6, in 2023 and 2024, with the intent to poach its clientele and business. These acts, according to the Plaintiff, constituted a breach of confidentiality and non-compete agreements signed by the Defendants. The Plaintiff alleges that Defendants Nos. 2 and 3 also used its intellectual property and goodwill to organize events for its established clients, thereby causing financial loss and damage to its reputation. The Plaintiff also claims to have organized significant events post-COVID, including Oracle's "Dev-Live 2024" event, generating revenue of ₹2,91,39,828/- which highlights the scale of its business operations and the alleged loss caused by the Defendants' actions.

6. Thus, the Plaintiff has moved this Court seeking an order of ad-interim *ex-parte* injunction against the Defendants, restraining them from engaging in activities that infringe upon the Plaintiff's



intellectual property, breach confidentiality and non-compete agreements, and divert the Plaintiff's business and clientele.

## **SUBMISSIONS BEFORE THE COURT**

### **Submissions on Behalf of the Plaintiff**

7. The learned counsel for the Plaintiff argues that the present application seeking an interim *ex-parte* injunction has been moved by the Plaintiff against a grave breach of trust and fiduciary duty by the defendants. The Plaintiff, a company engaged in the business of event management, has built a reputable standing over two decades by organizing significant corporate events for clients like Oracle India Pvt. Ltd., Seagate Singapore, Intel, and others. Defendant Nos. 1 to 4, former employees of the plaintiff, along with Defendant Nos. 5 and 6, incorporated companies during their employment, allegedly to poach the plaintiff's clients and hijack its business operations.

8. The Plaintiff contends that Defendant Nos. 2 and 3, who were employed for over a decade, conspired with others to manipulate and siphon funds by raising inflated bills and subsequently resigned on the same day without reasonable explanation. Shortly thereafter, these defendants began engaging in direct competition with the Plaintiff, targeting its major clients. The defendants used the Plaintiff's proprietary information, intellectual property, and client database, obtained during their employment, to misrepresent themselves as affiliates or branches of the Plaintiff's business.



9. The learned counsel for the Plaintiff highlights specific instances of client poaching and event misappropriation, including events organized for Oracle India Pvt. Ltd. worth several crores. The Defendants, while still employed, used the Plaintiff's resources, including email domains, to negotiate and secure these events under their newly formed entities, Defendant Nos. 5 and 6. Additionally, Defendant No. 1, a vendor of the plaintiff, in collusion with Defendant Nos. 2 to 4, generated inflated bills and sought undue payments.

10. The learned counsel further argues that these actions not only breach employment terms, including non-compete and confidentiality clauses, but also constitute fraud, misrepresentation, and illegal diversion of business, resulting in severe financial and reputational losses for the plaintiff. The plaintiff has initiated an audit and is in the process of filing a criminal complaint to address the large-scale fraud.

11. It is also asserted that immediate judicial intervention is required to restrain the defendants from continuing their unethical practices. Failure to do so would lead to irreparable harm, including the premature collapse of the plaintiff's business, built painstakingly over decades. Therefore, it is argued that the Plaintiff has a strong *prima facie* case and a likelihood of success, necessitating the reliefs sought in the present suit and instant application.

#### **Submissions on Behalf of the Defendants**

12. The learned counsel who appeared on behalf of the defendants strongly opposed the grant of interim injunction in favour of the plaintiffs, while submitting that the Plaintiff has failed to demonstrate



a *prima facie* case for an injunction, as the claims are speculative and unsupported by any kind of evidence.

13. It is argued that the decision of the Defendants to leave the Plaintiff was based on legitimate reasons, including professional growth and entrepreneurial aspirations, which were fully disclosed to the Plaintiff. The Defendants deny any collusion or coordinated effort to harm the Plaintiff's business, and having left the Plaintiff's company, the Defendants engaged in business activities in an entirely separate and competitive sphere, which is allowed under the law and within the bounce of fair competition. No confidential information, intellectual property or proprietary data of the plaintiff was misappropriated or used unlawfully by the defendants.

14. It is argued that the Defendants were under no obligation to continue working exclusively with the Plaintiff, and any ongoing engagements with former clients were entirely legal, ethical, and based on legitimate business interests.

15. It is contended that the alleged confidential information is either publicly available or constitutes general industry knowledge, which does not fall under the protection of law.

16. It has also been argued by the learned counsel for the Defendant that the Plaintiff has alleged that the Defendants have breached non-compete and confidentiality agreements, however, the non-compete clause appears overly broad and imposes unreasonable restrictions on the Defendants' right to earn a livelihood. It has also been stated on behalf of the learned counsel for the Defendants that the Defendants have not used any clientele or contacts of the Plaintiff.



17. It is the Defendants' case that the Plaintiff does not have any evidence to show that the alleged misuse of confidential information has caused significant harm to the company. The trade secrets (client lists etc.) are not proprietary, as the Defendants contend that these claims are a part of the open market. Therefore, *no irreparable injury* would be caused to the Plaintiff and granting an injunction at this stage would be unfair to the Defendants, who are running a legitimate business.

18. The learned counsel for the Defendants also states that there is no existence of cause of action in favour of the Plaintiff and against the Defendant. Therefore, to halt the functioning of the Defendants' entities due to contractual stipulations between the Plaintiff and its ex-employees is erroneous. According to the learned counsel, it is settled law that post – employment restraint on employees is impermissible. Thus, the present application for ad-interim injunction is liable to be rejected as there is no irreparable harm caused to the plaintiffs.

### **ANALYSIS & FINDINGS**

19. The primary issue for consideration before this Court is whether the Defendants, who allegedly engaged in competing business activities, by allegedly diverting the Plaintiff's business and clientele, are liable to be restrained by an order of ad interim *ex-parte* injunction to prevent further loss and damage to the Plaintiff's business and reputation.

20. The Hon'ble Supreme Court, in *Dalpat Kumar and Anr. v. Prahlad Singh and Ors.*: (1992) 1 SCC 719 1993 (1) SCC 325, had



discussed the essentials for granting a temporary injunction under Order XXXIX of CPC. The relevant extract of the decision is set out below:

“4...Injunction is a judicial process by which a party is required to do or to refrain from doing any particular act. It is in the nature of preventive relief to a litigant to prevent future possible injury. In other words, the court in exercise of the power of granting ad interim injunction is to preserve the subject matter of the suit in the status quo for the time being. **It is settled law that the grant of injunction is a discretionary relief. The exercise thereof is subject to the court satisfying that (1) there is a serious disputed question to be tried in the suit and that an act, on the facts before the court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant; (2) the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue before the legal right would be established at trial; and (3) that the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.**

5. Therefore, the burden is on the plaintiff by evidence aliunde by affidavit or otherwise that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established, on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be





adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that it is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject-matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit."

(Emphasis supplied)

21. The Hon'ble Apex Court had again in ***Seema Arshad Zaheer v. Municipal Corporation of Greater Mumbai***: (2006) 5 SCC 282 reiterated that the Court may grant a temporary injunction if the plaintiff establishes a *prima facie* case, demonstrates that the balance of convenience favors them, and shows the likelihood of irreparable injury if the injunction is denied. Additionally, the plaintiff must approach the court with clean hands, as the relief is equitable. The relevant portion of the judgment reads as under:

29. The discretion of the court is exercised to grant a temporary injunction only when the following requirements are made out by the plaintiff : (i) existence of a prima facie case as pleaded, necessitating protection of plaintiff's rights by issue of a temporary injunction; (ii) when the need for protection of plaintiff's rights is compared with or weighed against the need for protection of defendant's rights or likely infringement of defendant's rights, the balance of convenience tilting in favour of plaintiff; and (iii) clear possibility of irreparable injury being caused to plaintiff if the temporary injunction is not granted. In addition, temporary injunction being an equitable relief, the discretion to grant such relief will be exercised only when



the plaintiff's conduct is free from blame and he approaches the court with clean hands.

22. Thus, the essentials of granting an injunction are: (1) existence of a *prima facie* case; (2) likelihood of irreparable injury that cannot be adequately compensated by damages; and (3) balance of convenience favoring the applicant.

23. An injunction serves as a preventive relief to preserve the subject matter of the suit in *status quo* and prevent potential future injury. It is to be noted that while seeking an order of injunction, the plaintiff has to demonstrate, through evidence, the existence of a *prima facie* case and an infraction of his rights requiring court's intervention. The Court has to then carefully weigh the competing possibilities of harm to determine whether maintaining status quo or granting temporary injunction is necessary, pending adjudication.

24. Insofar as the merits of the present case are concerned, this Court has to determine whether an injunction is warranted to restrain the Defendants from engaging in competing business activities, including the organization of events for the Plaintiff's clients, which are allegedly intended to harm the Plaintiff's business interests.

25. The present case involves allegations against ex-employees of a company who are accused of starting a competing business and attempting to poach the clients of their former employer. The central issue, which arises on the basis of arguments addressed before this Court, for consideration in this case is whether the client list of a business can be protected through an injunction, particularly when it



concerns employees who have acquired knowledge of the company's clients during their employment.

26. It is important to examine whether such client lists, even if they are maintained by the Plaintiff, can be deemed proprietary information or trade secrets, deserving legal protection. In this Court's view, a client list, by itself, is not automatically protected as confidential information simply by virtue of its existence. To be considered a trade secret or confidential information, the list must have economic or business value that requires safeguarding against competitors.

27. The mere existence of a client list does not confer proprietary rights over it in a way that would prevent former employees from using it, unless there is evidence that the list is compiled through proprietary methods, or that it holds specific commercial value that could harm the business if disclosed. It is also essential to distinguish between information that is generally known or accessible in the public domain and information that is truly confidential, which would merit the protection of an injunction.

28. In this context, while a company may claim that its client list is confidential, the Court must scrutinize whether such information is truly proprietary or whether it simply reflects business relationships that are already in the public domain. If the client details are publicly known or easily ascertainable by competitors, it would be unreasonable to grant an injunction based on a claim of confidentiality.

29. Therefore, the issue at hand is not merely whether the Defendant has knowledge of the Plaintiff's clients, but whether that



knowledge rises to the level of confidential information or trade secrets that can be protected by legal measures such as an injunction. Without clear evidence that the client list holds economic value and that its use would harm the Plaintiff's business interests, the Plaintiff's request for an injunction based solely on the existence of a client list cannot be sustained.

30. A competitor, even when aware of which particular entity, individual, or person a business is currently engaged with, has the right to approach such individuals or persons to canvas their own business. It is ultimately the customer's discretion to decide which business or entity they choose to engage with. The mere creation of a database containing client or customer details, followed by a claim of confidentiality over it, does not bestow a monopoly over those customers. Furthermore, even if a person has gained knowledge about the Plaintiff's operational plans, they cannot be restrained from disclosing such plans to a competitor, provided that the information was retained in their mind. The competitor's decision-making cannot be presumed to have been solely influenced by such disclosure.

31. The Coordinate Bench of this Court in *American Express Bank Ltd. v. Priya Puri*: 2006 SCC OnLine Del 638, had held that mere knowledge of the plaintiff's operational strategies or plans, when carried in an individual's mind, does not give rise to an actionable claim for injunctive relief. A competitor may be aware of these plans, but they cannot be automatically considered to have been influenced by them. The plaintiff is not entitled to restrain the competitor from acting based solely on this knowledge.



32. This Court is of the view that the plaintiff has failed to produce any document or evidence demonstrating that Defendant No. 2 was bound by any agreement that prohibited him from carrying on his own business, either during his tenure with the plaintiff company or post-resignation from the directorship of the company. Therefore, the alleged use of client information or industry knowledge by the Defendant No. 2 cannot be restrained, as such knowledge does not constitute proprietary information or trade secrets of the plaintiff.

33. It is well-established that non-compete clauses during employment are enforceable; however, post-employment restrictions must be both reasonable and necessary to protect trade secrets or proprietary information. The defendant's use of general industry knowledge, gained during their employment with the plaintiff, cannot be prohibited unless it is shown that such knowledge constitutes confidential or proprietary information.

34. The plaintiff's contention that the Defendants used confidential information, including the client details and vendor codes, which were allegedly generated using the Plaintiff's client database, is not supported by any compelling evidence. As held by a Co-ordinate Bench of this Court, in *Manipal Business Solutions Private Limited v. Aurigain Consultants Private Limited & Ors.: CS(OS) 190/2022*, a director or employee of a company will naturally become familiar with the company's operations and clientele during their employment. This does not, however, grant them exclusive rights to the company's customer list or operational details.



35. The Plaintiff's claim that certain information is confidential and proprietary cannot *prima facie* be termed as such, as much of this information, including details about clients, business operations, and event types, is widely available through public sources such as press releases, social media posts, and public collaborations. As observed by the Co-ordinate Bench of this Court in *Manipal Business Solutions Private Limited v. Aurigain Consultants Private Limited & Ors.*: (*Supra*), confidential information must possess distinct commercial value. If information is already in the public domain, it cannot be classified as a trade secret deserving protection. The relevant extract from the judgment is as follows:

“ 37. According to Mr. Mehta, the same include customer data, agent data, contract data, employee data, market data and business plans.

38. I may at the outset state here that the plaintiff is not claiming any copyright in the above information. It is only claiming that the data is confidential. Even if such an argument was to be raised, the question would be whether the above information shall fall within the definition of copyright as defined under Section 13(1) of the Copyright Act. This Court in a series of judgments including the judgment in the case of Navigators Logistics Ltd. (*supra*), has in paragraphs 22 to 35, by referring to the judgment of the Supreme Court in *Eastern Book Company v. DB Modak*, (2008) 1 SCC 1, held that to claim copyright, the author must produce the material created with exercise of his skill and judgment, which must not be so trivial that it would be characterised as a purely mechanical exercise. The Court was of the opinion that the plaintiff therein, being a juristic person is incapable of being the author of any literary work in which a copyright may exist, though it may be the owner of copyright. As the plaintiff had failed to disclose the identity of the author, it could not claim any copyright in a list of customers/clients with their contact numbers.

39. Even the plea of confidentiality taken by Mr. Mehta is unsustainable, as merely stating that there exists some



confidential and secret information does not convince this Court that such information is, in fact confidential, more so, when the plaint and the pleadings do not disclose the nature of the information / data of which confidentiality is claimed. I find that no material / document connected with the aforesaid data / information has been filed by the plaintiff. In fact this aspect has been accepted by Mr. Mehta during his submissions.

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41. It has not been filed nor shown to the satisfaction of this Court, as to what exactly is the confidential information, how it is confidential, and how, if at all, the defendant company has used such information to the detriment of the plaintiff.

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44. A reading of the above reproduced paragraphs would reveal that not every customer/client list would qualify as confidential information or trade secret unless the confidentiality about it is of economic/business/commercial value. It is held that in any employment, every employee would get to know some information without any special effort. All such persons cannot be said to be in knowledge of trade secrets or confidential information and every knowledge of such facts cannot be labeled as trade secret or confidential information. If an employee on account of his employment has gathered some business knowledge/acumen or ways of dealing with clients, the same would not be termed as confidential information, disclosure of which would harm the plaintiff. Unless there is some material on record to show that the defendant had come to know of any confidential information / trade secret concerning the plaintiff and its business, no injunction can be granted, more so when such trade secret / confidential information have not even been spelt out. The learned Single Judge, referring to the decision in American Express Bank (supra) has observed that a competitor even after knowing which particular entity/an individual/person is currently in business with, can approach such individual/person to canvas about itself, and it is for the customer to decide which business/entity to choose. Creating a database of clients/customers and then claiming confidentiality on it does not create a monopoly over such customers. That apart, even if a person has amassed knowledge with regard to the plaintiff's plan of operation, he could not be enjoined from disclosing such plans to the



competitor, if he has carried such plans in his head and even the competitor could not be said to be driven by such disclosure alone. I agree with the aforesaid conclusion arrived at by the Coordinate Bench of this Court.

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57. I agree with the conclusion of the Court that a client list cannot be construed as confidential information to claim any right. The judgment relied upon has no applicability. ”

36. It is also established that every employee gains knowledge during the course of their employment, and not all such knowledge can be classified as a trade secret or confidential information. If an employee acquires business knowledge, such as ways of dealing with clients, through ordinary experience, it cannot be considered confidential information. Disclosure of such knowledge would not harm the plaintiff unless it is demonstrated that the defendant had access to specific trade secrets or proprietary information.

37. Therefore, the details of customers, while potentially known to employees of a business, cannot be deemed proprietary or protected trade secrets. Such information can easily be acquired by others through observation, independent canvassing, or minimal effort. It is unreasonable to treat such details as confidential when they are accessible with little effort and at minimal cost.

38. In light of the above, this Court finds that the injunction sought by the Plaintiff would curtail the Defendants' ability to seek future employment or business opportunities. Restricting an individual's freedom to seek better prospects, merely on the grounds that they possess information that is readily available or ascertainable, is an impermissible restraint on trade and employment. Such restrictions are





contrary to public policy, as enshrined in Section 27 of the Indian Contract Act.

39. Thus in this Court's opinion, the Plaintiff has failed to establish a *prima facie* case for the grant of an ad-interim injunction under Order XXXIX Rules 1 and 2 of the CPC. There is no material to suggest that the Plaintiff's claims are sufficiently justified to issue an ad-interim injunction order, nor has the Plaintiff demonstrated that they will suffer irreparable harm or that the balance of convenience favors them.

40. Accordingly, the application for an ad interim *ex parte* injunction is hereby dismissed.

41. However, nothing expressed hereinabove shall tantamount to an expression on the merits of the case.

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42. Issue summons of the suit and notice of the application to the defendants through all permissible modes, including electronic mode and dasti as well.

43. The summons to the defendants shall indicate that the written statement(s) to the plaint shall be positively filed within a period of 30 days from the date of receipt of summons. Along with the written statement(s), the defendants shall also file the affidavit(s) of admission/denial, without which the written statement(s) shall not be taken on record.

44. Liberty is given to the plaintiff to file the replication within a period of 15 days of the receipt of the written statement(s). Along with replication, if any, filed by the plaintiff, the affidavit(s) of



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admission/denial of documents of the defendant(s) shall be filed by the plaintiff.

45. List before the learned Joint Registrar (Judicial) for completion of pleadings on 18.02.2025.

**SWARANA KANTA SHARMA, J**

**DECEMBER 24, 2024/ns**