



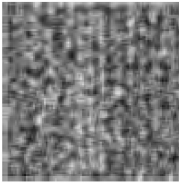
# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

सत्यमेव जयते

|                           |  |
|---------------------------|--|
| Certificate No.           | : IN-DL35359322683551T                       |
| Certificate Issued Date   | : 11-Oct-2021 01:06 PM                       |
| Account Reference         | : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH |
| Unique Doc. Reference     | : SUBIN-DLDSLHIMP1766254926654772T           |
| Purchased by              | : ALOK KUMAR JAIN                            |
| Description of Document   | : Article 12 Award                           |
| Property Description      | : Not Applicable                             |
| Consideration Price (Rs.) | : 0<br>(Zero)                                |
| First Party               | : ALOK KUMAR JAIN                            |
| Second Party              | : Not Applicable                             |
| Stamp Duty Paid By        | : ALOK KUMAR JAIN                            |
| Stamp Duty Amount(Rs.)    | : 100<br>(One Hundred only)                  |



.....Please write or type below this line.....

**BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR**  
**INDRP Case No. 1429**

**Disputed Domain Name: [www.elitematrimonybureau.in](http://www.elitematrimonybureau.in)**

### ARBITRATION AWARD

**M/S ELITE MATRIMONY BUREAU**

**COMPLAINANT**

**Versus**

**ARCHANA VERMA**

**RESPONDENT**

Page 1 of 19

*Alok Kumar Jain*

#### Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

**BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR**

**.IN REGISTRY**

**NATIONAL INTERNET EXCHANGE OF INDIA(NIXI)**

**INDRP ARBITRATION**

**INDRP Case No. 1429**

**Disputed Domain Name: www.elitematrimonybureau.in**

**ARBITRATION AWARD**

**Dated 12.10.2021**

**IN THE MATTER OF:**

**M/S ELITE MATRIMONY BUREAU**

**Proprietor: RakeshTripathi**

**AB-1, Kamal Cinema Complex,  
Safdarjung Enclave, New Delhi-110029,**

**India +91-9654410748**

**info@elitematrimonybureau.com**

**..Complainant**

**Versus**

**ARCHANA VERMA**

**D-24, 1st Floor Defense Colony**

**NewDelhi-110024**

**+91-9990010370**

**info@elitematrimonybureau.in**

**The Parties**

1. The Complainant in this arbitration proceeding is ELITE MATRIMONY BUREAU .Mr. RakeshTripathi is its proprietor having office at AB-1, Kamal Cinema Complex, Safdarjung Enclave, New Delhi-110029, India having email address as info@elitematrimonybureau.com. The Complainant is represented by Mr.Ankit Bhargava,Advocate having office at 430, Saket District

*Alok Kumar Jain*

Courts, Saket, New Delhi-110017, India with email address as advocateankitbargava@hotmail.com

- 1.1 The Respondent is Archana Verma having office at D-24, 1st Floor Defense Colony New Delhi-110024 with mobile no. +91-9990010370 and email address as info@elitematrimonybureau.in,

**2 Domain Name and Registrar:-**

- 2.1 The Disputed Domain name is <elitematrimonybuereau.in> bearing RegistryDomainID:D2F92BD15B64B4D379FDE793A3A9D7563-IN which was registered on 12<sup>th</sup> April 2019
- 2.2 The accredited Registrar with whom the Disputed Domain Name is registered is GoDaddy.com, LLC having Tel: 040 67607600 and Email: drpdisputes@godaddy.com

**3 Procedure History:**

- 3.1. This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (the "Policy") adopted by the National Internet Exchange of India ("NIXI") and the INDRP Rules of Procedure (the "Rules") which were approved in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the Disputed Domain Name with a NIXI accredited Registrar, the Registrant of the disputed domain name agreed to the resolution of disputes pursuant to the said Policy and the Rules. However the

Alok Kumar Jain

registrant of the disputed domain name has not been made Respondent in theses present proceedings as discussed hereinafter.

As per the information received from NIXI, the history of the proceedings is as follows:

- 3.2. The Complaint was filed by the Complainant with NIXI against the Respondent . On 8.9.2021 I was appointed as Sole Arbitrator to decide the disputes between the parties. I submitted statement of Acceptance and Declaration of Impartiality and Independence same day as required by rules to ensure compliance with Paragraph 6 of the Rules.

NIXI notified the Parties of my appointment as Arbitrator *via* emails dated 8.9.2021 and served by email an electronic Copy of the Complaint with Annexures on the Respondent at the email address of the Respondent.

- 3.3. I issued notice to the parties vide email dated 9.9.2021 directing the Complainant to serve complete set of Complaint on the Respondent in soft copies as well as in physical via courier /Post. The Complainant sent the copies of the

Alok Kumar Jain



Complaint (including Annexures) in electronic form at the email address of the Respondent and also sent copy of the Complaint to the Respondent by Speed Post. The Respondent was directed to file its response within 7 days from the date of notice. The notice sent to the Respondent at the email address furnished by the complainant returned undelivered. Thereafter NIXI furnished correct email address of the Respondent as 'mdluxuryindiasolutions@gmail.com' and same day on 9.9.2021 notice was again sent to the Respondent at the email address 'mdlxuryindiasolutions.com'. Complainant was also directed to serve the Respondent at the said email address. The Respondent was duly served. On 15.9.2021 a request was made by one Sonu Arora vide email on behalf of the Respondent to grant one week further time to file reply. Accordingly one week further time was granted to the Respondent. Reply was filed vide email dated 22.9.2021 by Shri Sonu Arora as Director of Elite Matrimony Bureau Pvt.Ltd. stating that the disputed domain name is

Alok Kumar Jain

registered in the name of Elite Matrimony Bureau Pvt.Ltd. No Personal hearing was requested by either parties.

3.5. Clause 8(b) of the INDRP Rules requires that the Arbitrator shall at all times treat the Parties with equality and provide each one of them with a fair opportunity to present their case. Equal opportunities have been given to the parties.

3.8 Rule13(a) of INDRP Rules of procedure provides that 'An Arbitrator shall decide a Complaint on the basis of the pleadings submitted and in accordance with the Arbitration & Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2015 read with the Arbitration & Conciliation Rules, Dispute Resolution Policy, the Rules of Procedure and any by-laws, and guidelines and any law that the Arbitrator deems to be applicable, as amended from time to time.'

**4. Grounds for Arbitration Proceedings.**

**INDRP Policy para 4.Class of Disputes provides as under:**

Alok Kumar Jain

Any Person who considers that a registered domain name conflicts with his/her legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used in bad faith.

**5. The Case of the Complainant :-**

The Complainant has invoked clause 4 of INDRP Policy and has prayed inter alia that the Disputed Domain name be transferred to the Complainant.

In support of its case, the Complainant has stated inter alia as under:

- 5.1. The Complainant averred in para no.25 of the Complaint as under:

“Para no.25.While the WHOIS information associated with the Domain Name is now privacy protected, the same “Elite matrimony Bureau Pvt. Ltd” continues to be the registrant of

the Domain Name and is properly the Respondent to the present dispute, and an individual by that name contacted the Complainant regarding the Domain Name in April 2019”.

- 5.2 The Complainant stated that the Complainant was founded in 2018 by the sole proprietor “Rakesh Tripathi” and has grown to become a well-known firm to offer ‘matrimonial services’ at PAN India basis. The Complainant registered the domain name [www.elitematrimonybureau.com](http://www.elitematrimonybureau.com) in 2018, and has operated a website from that domain name since then. This website prominently features the “ELITE MATRIMONY BUREAU” Brandmark/Trademark (described herein), and promotes the Complainant’s businesses in association with that trademark. The complainant applied for the GST Certificate as a proprietor: Rakesh Tripathi, with Trade name: ELITE MATRIMONY BUREAU acquired the GST Registration Number: 07ADTPT6047Q1ZD, dated: 24/09/2019 A copy of the GST certificate is annexed with the Complaint as annexure-2. Copy of the receipt for purchase of the domain name “[elitematrimonybureau.com](http://elitematrimonybureau.com)” has been attached as **Annexure-3** with the Complaint. And that the complainant has actively, regularly and continuously been promoting there distinctive website and the said brand & business there under through extensive advertisements, publicities, promotions and marketing & marketing research

and the Complainant has been spending enormous amounts of moneys, efforts, and time thereon. The Complainant has been doing so through various means and modes including through the visual, print & electronic media like HINDUSTAN TIMES, JUST DIAL, GOOGLE ADWORDS etc. A reference is made to Annexure 4-8 annexed with the Complaint. Since the adoption & creation of the said brand mark & website, the Complainant has been honestly & bonafidely, continuously, commercially, openly, exclusively and to the exclusion of others, uninterruptedly and in the course of business and as proprietor there of being using the said mark & website in relation to its brand & business and carrying on its said brand and business there under and has built up a regional and national valuable goodwill and reputation there under and acquired proprietary rights there

5.3 It is further stated that the Complainant filed trademark applications with the India Intellectual Property Office (IPO) Trademarks Registry (TMR) to protect & safeguard its IP Rights over the word mark & logo for/of "ELITE MATRIMONY BUREAU"

5.4 Complainant further submits that the Respondent registered the Domain Name: "elitematrimonybureau.in" which is confusingly similar to the Complainant's ELITE MATRIMONY BUREAU applied for Trademarks and "elitematrimonybureau.com" domain name, differing only by

a single letter in the top-level domain (TLD) portion. The Domain Name is being used by the Respondent for the purpose to gain the unfair advantage of the goodwill of the complainant's domain name and brand mark i.e. "elitematriminybureau.com" and "ELITE MATRIMONY BUREAU" to create a likelihood of confusion among the existing & potential buyers and in the marketplace to divert the online traffic i.e. local potential INDIAN buyers.

- 5.5 Complainant further averred that Complainant's search has not revealed any pertinent or long use of mark "ELITE MATRIMONY BUREAU" by the Respondent. The disputed domain name was acquired by the respondent until recently & only after the complainant acquired, & published the mark 'ELITE MATRIMONY BUREAU' and domain "elitematrimonybureau.com". Even if the Respondent's website is active now, it grants no legitimate rights to them in "ELITE MATRIMONY BUREAU". The Respondent is not using the domain name for bona fide offering of goods and services. The services being offered by the Respondent are identical to the services of the Complainant. Therefore, the subsequent use of an identical mark by the Respondent for identical services cannot be deemed bona fide and create no legitimate rights in favor of the Respondent. The Respondent knew of Complainant's trademark "ELITE MATRIMONY BUREAU" since it is a "well-known" and "famous"

trademark. The Respondent has registered the disputed domain name for the purpose of illegal trading and trafficking.

5.6 Complainant states that there has never been any relationship between the Complainant and the Respondent. The Respondent has never been authorized to register or use, any of the ELITE MATRIMONY BUREAU Trademarks/Brand mark, in any manner whatsoever, including in, or as part of, the Domain Name.

5.7 That the Complainant issued a 'Cease and Desist Letter' to the Respondent against the IP infringement to cease using the brand mark of the complainant without obtaining any prior permission & consent of the Complainant. The said letter was sent via 'e-mail' @ (info@elitematrimonybureau.in) & on the 'WhatsAppnos': +91-9711000390 & +91-9990010370(published on the respondent's website) i.e. "www.elitematrimonybureau.in" on dated: 22/07/2021. Whereas the letter sent via WhatsApp was successfully delivered on the aforesaid WhatsApp nos. of the respondent but the email sent at info@elitematrimonybureau.in got bounded back & remained undelivered.( Annexure-15). A copy of the notice and the screenshots of the WhatsApp have been annexed as Annexure-13 & 14 with the Complaint. The Complainant also made sure to report the registrar of the domain in issue i.e. GoDaddy India about the infringement & passing off the trademark/brand

mark of the Complainant by the Respondent. And a report for IP infringement was lodged with the Godaddy Inc. via email at trademarkclaims@godaddy.com dated 21/07/2021 07'16 p.m. A copy of the acknowledgment has been annexed as Annexure- 16. The Complainant did not hear back any response from the Respondent w.r.t the cease and desist letter issued dated 22/07/2021 to the Respondent to cease to use the brand mark of the Complainant & identically similar domain name in issue. The Complainant seeks transfer of the disputed domain to the Complainant.

**6. Respondent Case:**

The Respondent has filed a detailed reply to all the allegations of the Complainant.

- 6.1 The Respondent submits that the Respondent shown in the present Complaint is an employee of ELITE MATRIMONY BUREAU PVT. LTD. The Respondent has been wrongly made a party in the present proceedings, The domain name is registered in the name of ELITE MATRIMONY BUREAU PVT. LTD., which was known to Petitioner and despite that he has mischievously made an employee party to the proceedings. Respondent further avers that Sonu Aröra and Manu Arora are the Directors of Elite Matrimony Bureau Pvt. Ltd.

*Alok Kumar Jain*



6.2 That the Respondent have been into the services of matrimonial alliances for the past many years since the year 2015. More particularly, they have been promoting their services since the year 2015 in trademark starting with the word ELITE .In 2015, a company was formed Luxury India News Private Limited under CIN U74140DL2015PTC280915.The master data of the Company is filed as Annexure R -I with the reply. Further, Luxury India News Private Limited and Luxury India Solutions Private Limited coined, adopted various trademarks Starting with the word ELITE and used it in the business of matrimonial match making services. The said company obtained trademark registration under no2975810 for the mark ELITESWAYAMVAR.COM, The date of application is 01 June 2015 with a user claim of 01 April 2015. Print out of the e Register from the website of Registrar of Trademarks and Registration Certificate is filed as Annexure R 2 with the reply,

6.3 The said company obtained trademark registration under no. 2975811 for the mark ELITEIODI.COM. The date Of application is 01 June 2015 with a user claim of 01 April 2015. print out of the e Register website Of Registrar of Trademarks and Registration Certificate is filed as Annexure R- 3 with the reply.

6.4 Respondent further states that the said company coined and adopted the trademark in January 2018 and filed trademark

application for the mark ELITEMARRIAGE BUREAU on 02 February 2018 under trademark application no- 3742886 in class 45. This application is pending Print out of the e Register from the website of Registrar of is filed as Annexure R-4. Thereafter, the Respondent incorporated a company under the name ELITE MARRIAGE BUREAU PRIVATE LIMITED under CIN U7499DL2019PTC349796. Print out of the Company Master Data is filed as Annexure R-5.

6.5 It is further stated that the Respondent in continuation of its business obtained GST registration under no, 07AAFCE480LIZM under name ELITE MARRIAGE BUREAU PVT. LTD. on 21 May 2019. Print of the GST registration is filed as Annexure R-6. That the Respondent incorporated a company under the name EMB Matrimonial Services Pvt. Ltd on 05 June 2018 bearing CIN U74999DL2D18PTC334906, Print out of the CST registration is filed as Annexure R-7.

6.6 The Respondent submits that the Respondent is the owner of large number of domain names starting with the word ELITE for the purposes of its business of matrimonial services. These command substantial goodwill and reputation and is very well known in this business. Printout of the same is filed herewith as Annexure R-8. Invoices showing use of domain names are filed as Annexure R-9.

Alok Kumar Jain

6.7 Respondent states that the petitioner herein was using a word SYCORIÄAN MATRIMONIAL SERVICES. The word SYCORIAN was considered to be a generic word. The Petitioners- business under this word was a total failure. The Petitioner has therefore now copied and started using the word ELITE to ride on the goodwill and reputation of the Respondent. Towards, this, the Petitioner appears to have obtained registration of a domain name www.elitematrimonybureau.com on 10 July 2018 merely to block the domain name and sit there to disrupt the business of the Respondent. That the Petitioner and Respondent have had many disputes in the past, court case and exchange of notices. True copy of the Complaint is filed as Annexure R-10. Further, in response to a notice sent by the Petitioner, the reply had returned unserved, which was sent to the Petitioner.

6.8 Respondent submits that large number of invoices showing use of the word ELITE by the Respondent and his group companies (same Directors and owners) have been filed which shows that the Respondent company with its group companies were using the trademark ELITE MARRIAGE BUREAU since February 2018. The Petitioner has used the same idea, features, words and applied a deceptively similar domain name ELITE MATRIMONY BUREAU as that of the Respondent. The words MATRIMONY and MARRIAGE signify the Same thing and same service, A person who has used the service of

the Respondent under the mark ELITE MARRIAGE BUREAU will assume that the ELITE MATRIMONY BUREAU also belongs to the person. Therefore, it is the Petitioner, who has copied from the Respondent and not the other way round. which the Petitioner claiming before this Hon'ble Tribunal. The present case is total Abuse of Process of Law.

**7. Discussions and findings:**

Before deciding the complaint on merit, it is necessary to determine if the Respondent herein is a proper party for adjudication of the disputes.

The Complainant has impleaded Archana Verma as the Respondent without stating her relationship with the disputed domain name.

Reply to the complaint has been filed which is signed by one Shri Sonu Arora as Director of Elite Matrimony Bureau Pvt. Ltd. It is stated in the reply that Sonu Arora and Manu Arora are the Directors of Elite Matrimony Bureau Pvt. Ltd. It is further stated in the reply that the Respondent shown here is employee of ELITE MATRIMONY BUREAU PVT. LTD. And that the Respondent has been wrongly made a

party in present proceedings. The domain name is registered in the name of ELITE MATRIMONY BUREAU PVT. LTD., which is known to Petitioner and despite that he has mischievously made an employee a party to the proceedings.

I have perused the complaint and the reply thereof and the documents filed with the complaint and the reply.

In para no.25 of the Complaint, the Complainant has stated as under:

“para 25 While the WHOIS information associated with the Domain Name is now privacy protected, the same “Elite matrimony Bureau Pvt. Ltd” continues to be the registrant of the Domain Name and is properly the Respondent to the present dispute, and an individual by that name contacted the Complainant regarding the Domain Name in April 2019”.

Further the cease and desist notice dated 22.7.2021(Annexures no.13 to the Complaint) in respect of disputed domain was given by the Complainant to Elite Matrimony Bureau Pvt.Ltd.

*Alok Kumar Jain*

From above averments in the complaint and considering the said cease and desist notice dated 22.7.2021 given by the Complainant , it is evident that the Complainant was aware of the real identity of the Respondent. It is the Elite Matrimony Bureau Pvt.Ltd. who was the proper respondent in the present proceedings as per averment made in para 25 of the Complaint.Yet the Complainant did not implead Elite Matrimony Bureau Pvt. Ltd. as the Respondent. Further Mr.Sonu Arora Diector of Elite Matrimony Bureau Pvt. Ltd. has also taken objection regarding wrong impleading of Archana Verma as the Respondent. The Complainant did not take any steps to amend the complaint and to implead proper party namely Elite Matrimony Bureau Pvt.Ltd. as Respondent for just adjudication of the disputes despite an objection being taken in this regard by Elite Matrimony Bureau Pvt. Ltd. Accordingly I hold that the Archana Verma, impleaded as Respondent by the Complainant in present complaint, is not a proper party. Elite matrimony Bureau Pvt. Ltd. ,the registrant of the disputed domain name ,was the proper party to be

Alok Kumar Jain

impleaded as Respondent in these proceedings. Therefore, in absence of proper Respondent being made a party in these proceedings ,present complaint can not be decided.

In view of above mentioned facts and circumstances, I hereby reject the Complaint. It is clarified that the complaint has not been decided on merits of the case. There is no order as to Cost.

*Alok Kumar Jain*

Delhi

ALOK KUMAR JAIN

Dated 12.10.2021

SOLE ARBITRATOR