

\$~ 25

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

+ CS(OS) 1993/2013

% *Date of decision : 15th October, 2014*

TATA SONS LIMITED & ANR

..... Plaintiffs

Through: Mr. Achutan Kumar and Mr. Karan
Kumar Kamra, Advs

Versus

ASHOK KUMAR & ANR

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J. (ORAL)

1. Plaintiff has filed the present suit for Permanent Injunction restraining infringement of registered trademarks, passing off, dilution and tarnishment of trademark.
2. Summons in the suit and notice in the application were issued on 11.10.2013. Counsel for defendant no. 2 entered appearance on 08.01.2014 and submitted that defendant no. 2 has already blocked the contents of the site and seeks discharge from the matter. Vide order dated 26.02.2014, defendant no. 2 was deleted from the array of parties and defendant no.1 was proceeded ex parte as despite being served none appeared for defendant no.1.
3. Plaintiffs have filed affidavit by way of evidence of Mr. V. Gurumoorthi (PW1), the Constituted Attorney of the plaintiff no. 1 company. Copy of power of attorney and a copy of board resolution in favor of PW1 have been

exhibited as **Ex. PW 1/1** and **Ex. PW1/2**. PW1 has deposed that the plaintiff no. 1 Tata Sons Limited is a company duly incorporated under the Indian Companies Act, 1913. Copy of the certificate of incorporation of the plaintiff no.1 company has been marked as **Mark A**.

4. PW1 has also deposed that plaintiff no.1 was established in the year 1917, as a body corporate and is the principal investment holding company of the House of TATA, which is India's oldest, largest and best known conglomerate, with a turnover of US\$97 billion (around Rs. 527,047 crores) in 2012-13, with 63 per cent of this coming from businesses outside India and also plaintiff no. 1 is one of India's most trusted business houses and the name/trademark TATA, derived from the surname of the founder Jamsetji Nusserwanji Tata, is a household name synonymous with excellence in several fields of business activity.
5. PW1 has further deposed that plaintiff no. 1 and other Tata companies are India's oldest and largest private-sector employer, consisting of over 100 major operating companies, 32 of which are listed on stock exchanges and they have a combined market capitalization of about \$111.51 billion (as on January 23,2014), and a shareholder base of about 4 million and the Tata companies have employed over 544,000 people worldwide. The major Tata companies are Tata Steel, Tata Motors, Tata Consultancy Services (TCS), Tata Power, Tata Chemicals, Tata Global Beverages, Tata Teleservices, Titan, Tata Communications and Indian Hotels and the TATA name has come to be respected in India for over 140 years for its adherence to strong values and business ethics.
6. Mr Gurumoorthi, PW1 has further deposed that the plaintiff no. 1 and their subsidiaries and associates have laid the foundation in the industrial core sectors, pioneering textiles, hotels, iron & steel, power, chemicals, and

automobile industries in India and keeping pace with the changing global scenario, Tata companies branched out into computers and computer software, travel, tourism, electronics, telecommunications, financial services, mutual funds, tea, coffee and beverages, etc.

7. PW1 has also deposed that the House of TATA, has been ranked 34th by Brand Finance, (an independent company focused on the management and valuation of brands) Global 500 Report 2014 and the TATA Group is the only Indian group or company to be listed among top 20 companies of the world in terms of corporate reputation. PW1 has further deposed that the House of TATA was also ranked 13th in the list of World's 50 Most Innovative Companies by Business Week, for the year 2009 and for the year 2006, Forbes, an American publishing and media company, has also ranked the TATA Group at the 20th position among the world's most reputed companies and as the largest Indian group in terms of revenues and market capitalization. Documents beaming testimony of the well known status, goodwill and reputation enjoyed by the plaintiff no.1 company as well as its sister concerns like the list of well known trademark issued by the trade marks registry acknowledging the plaintiff's no.1 trademark TATA and the T within a circle device and a copy of the original compendium on the financial highlights of the plaintiff company and its group companies have been exhibited as **Ex.PW1/7** and **Ex.PW1/11**.
8. PW1 has also deposed that since 1917, the plaintiff no.1 has been continuously and consistently using the trademark and trade name TATA, which is a rare patronymic name, possessing the distinctiveness of an invented word, for its own activities as well as those companies promoted by it and the use of the trademark and name TATA by the plaintiff no.1's predecessors in business dates back to 1868. PW1 has further deposed that

on account of its highly distinctive nature and the pioneering activities of the founder, the name TATA acquired an excellent reputation and has consistently been associated with, and exclusively denotes the conglomeration of companies forming the TATA Group, consisting of over 100 companies of which over 50 companies, including plaintiff no.2, use TATA as a key and essential part of their corporate name including various overseas companies, philanthropic bodies and autonomous public institutions promoted by the House of TATA.

9. PW1 has next deposed that plaintiff no.1 is the proprietor of the trademark TATA by virtue of priority in adoption, long, continuous and extensive use, advertising, and the plaintiff no.1 and its group companies have exclusively used TATA as a trademark so that it is uniformly perceived as indicative of the source of the plaintiff and the companies promoted by the House of TATA.
10. Mr Gurumoorthi, PW1, has also deposed that the plaintiff no.1, being the proprietor of the trademark TATA enjoys exclusive rights in the said trademark and is entitled to take action against unauthorized use thereof by third parties for any goods or services and the plaintiff has successfully and vigorously enforced its trademark rights in the TATA trademarks in relation to various goods and services, even those that are different and unrelated from its existing field of operations. Copies of the orders passed by various Courts of India and abroad as well as various other tribunals, forums etc. protecting the well-known trademark 'TATA' of the plaintiff have been marked as **Mark D**, **Mark E**, **Mark F**, **Mark G** and **Mark H** respectively.
11. PW1 has also deposed that in addition to the common law rights that have accrued to the plaintiffs, it is also the registered proprietor of several TATA-formative trademarks in relation to various goods across various classes of

the Fourth Schedule of the Trade Marks Rules, 2002 and by virtue of the said registrations, the plaintiffs have the exclusive right to use the trademark TATA in relation to the goods covered there under and to obtain relief in respect of the infringement of the registered trademarks. A tabulated list of the plaintiff no.1 trademark registrations in India with representative copies of a few trademark registration certificates have been marked as **Mark I**. PW1 has next deposed that the plaintiff no.1 also owns trademark registrations for the word TATA in over 50 countries besides India. A list of some of the trademark registrations in favour of the plaintiff no. 1 in India comprising the word TATA in various classes along with printouts from the trademarks registry website pertaining to the said trademarks has been marked as **MARK J**.

12. PW1 has further deposed that the plaintiff no.1 is also the proprietor of the trademark TATA as well as the “T within a circle” devices and has copyrights to various pictorial representations of the “T within a Circle device”. Copy of certificates for use in legal proceedings for some of the TATA and “T within a circle” trademarks registrations owned by the plaintiff no.1 company and its sister concerns has been marked as **Mark K**. Also printouts from the website of the trademark registry pertaining to the trademark registrations in favour of the plaintiff no.1 and its sister concerns in Class 36 and in Class 16 and 35 have been marked as **Mark L** and **Mark M**.
13. PW1 has also deposed that apart from the trademark registrations the plaintiff no. 1 is also the registered proprietor of the mark TATA CAPITAL marks in various other classes and the plaintiff no. 2 has been authorized by plaintiff no.1 to use various trademark registrations in the name of the plaintiff no.1 vide an agreement dated 04.10.2013 titled Tata Brand Equity

and Business Promotion Agreement. A copy of the agreement has been exhibited as **Ex.PW 1/13**.

14. PW1 has further deposed that as a result of the continuous and extensive use of the plaintiffs' trademark TATA over a long period of time spanning a wide geographical area coupled with vast promotion and publicity, the said trademark enjoys an unparalleled reputation and goodwill and has acquired the status of a "*well-known*" trademark and courts have consistently protected the trademark TATA against misuse by various persons/firms/companies engaged in manufacture and/or sale of goods as diverse as pressure cookers, lottery tickets, cutlery, newspapers, etc. and for online activities or mere registration of domain names. PW1 has next deposed that plaintiffs have filed a number of cases before the WIPO Arbitration & Mediation Center against the misuse of its trademark in relation to domain names. Copies of various orders passed in favour of the plaintiff no.1 and other group entities by the Hon'ble Court as well as the WIPO Arbitration & Mediation Center have been marked as **Mark O**.
15. PW1 has also deposed that the plaintiffs have devoted an enormous amount of time, effort and energy in promoting and advertising the TATA marks in print and online media and the TATA mark is consequently identified solely with the plaintiffs.
16. Mr Gurumoorthi, PW1 has further deposed that the plaintiffs and its group companies have various online internet portals and are registrants of various domain names containing its trade/service mark TATA. Some of such domain names are given below:
 - a. www.tata.com
 - b. www.tataaiginsurance.in
 - c. www.tatamutualfund.com
 - d. www.tatacapital.com

- e. www.tatacommunications.com
- f. www.tata-daewoo.com
- g. www.tataelxsi.com
- h. www.tataglobalbeverages.com
- i. www.tatahousing.com
- j. www.tatainternational.com
- k. www.tatamotors.com
- l. www.tata-realty.com
- m. www.tataservices.com
- n. www.tatasky.com

Extracts from some of the plaintiff no. 1's abovementioned websites have been exhibited as **Ex.PW 1/14**.

17. PW1 has also deposed that plaintiffs are the proprietor of the trade name and domain name TATA/TATA CAPITAL and www.tata.com and www.tatacapital.com respectively by virtue of priority in adoption, continuous and extensive use and advertising. PW1 has further deposed that the plaintiff no. 2 is the subsidiary of Tata Capital Limited which is a subsidiary of the plaintiff no. 1 and is registered with the Reserve Bank of India as a Systemically Important Non Deposit Accepting Finance Company (NBFC) and offers through itself and its subsidiaries fund and fee-based financial services to its customers under the Tata Capital brand.
18. PW1 has also deposed that the defendant no. 1, Mr. Ashok Kumar is the registrant of the impugned domain name www.tatacapitalfinance.com and engaged in identical business activities as that of plaintiff no.2 i.e. the business of providing loans, insurance, financial services and other related services and through the impugned website, the defendant no. 1 was posing to be related / endorsed / associated with the plaintiffs solely with the ulterior motive of extorting money from the unwary public.

19. Plaintiffs have also filed evidence by way of affidavit of Mr. Amarjeet Singh (PW2), the Constituted Attorney of the plaintiff no. 2 company. A copy of the Power of Attorney dated 03.04.2012 in favour of plaintiff no. 2 has been exhibited as **Ex. PW 2/1**. PW2 has deposed that plaintiff no.2 is a trusted and customer-centric, one-stop financial services provider and caters to the diverse needs of retail, corporate and institutional customers, across various areas of business namely Commercial Finance, Infrastructure Finance, and Wealth Management, Consumer Loans and distribution and marketing of Tata Cards. Printouts of the relevant extracts from the website of plaintiff no.2 i.e. www.tatacapital.com as well as other websites evidencing the factum of the business activities of the plaintiff no. 2 have been exhibited as **Ex. PW 2/3**.
20. PW2 has also deposed that defendant no. 1 had a fully functional website on the impugned domain name www.tatacapitalfinance.com and a mere perusal of the website of the defendant no. 1 i.e. www.tatacapitalfinance.com clearly brings to the fore that the same is identical to and an exact replica of the plaintiff no.2's website located at www.tatacapital.com. Printouts from the impugned website have been exhibited as **Ex. PW 2/5**.
21. PW2 has further deposed that during late September, 2013, the plaintiffs were informed via email by Mr. Vinod Kumar Choudhary that the defendant no. 1 had contacted one of his acquaintances posing as the plaintiffs and offered to provide loan services to him and the defendant no. 1 fraudulently extorted Rs 20,000 from the said person misrepresenting himself to be the plaintiffs and in furtherance of his mala-fide and ulterior objective to mislead and cheat unsuspecting customers, the defendant sought more money from the above mentioned customer as insurance fee to have the loan approved.

22. Mr Amarjeet Singh, PW2, has further deposed that defendant no. 1 had also made a fake letterhead which would appear to any person to be the letterhead of the plaintiffs while demanding the insurance fee from the said customer. Copy of the email dated 18.09.2013 as addressed to the plaintiffs by Mr Choudhary intimating the illegal activities of defendant no.1 as well as a copy of the fake letterhead as sent to the customer by defendant no.1 has been exhibited as **Ex. PW 2/6**.
23. PW2 has also deposed that the plaintiffs thereafter made a written representation dated 23.09.2013 bringing the aforementioned facts to the notice of the Cyber Crime Investigation Cell, Mumbai Police and to the Head – CERT India seeking disablement of the impugned domain name www.tatacapitalfinance.com of the defendant No. 1. A copy of the written representation dated 23.09.2013 made to Cyber Crime Investigation Cell, Mumbai Police and the Head – CERT India have been marked as **Mark A** and **Mark B** respectively.
24. PW2 has further deposed that the impugned domain name www.tatacapitalfinance.com of the defendant no.1 includes the word TATA, which is identical as a whole to the well known trademark and service mark TATA of which the plaintiffs are the registered proprietor and have overwhelming statutory rights as well as common law rights by virtue of long and continuous use. PW2 has next deposed that defendant no. 1 has no right or legitimate interest in the disputed domain name of the defendant no.1 <www.tatacapitalfinance.com> and it is an attempt on part of defendant no.1 to associate itself with the plaintiffs' online service under the trade name/domain name TATA.COM so that if any user was searching for the plaintiffs' service online as TATA, would be taken to the defendant no. 1's domain name, which enhanced the possibility of inevitable confusion.

25. PW2 has also deposed that the defendant no.1 is a habitual offender and is illegally and recklessly determined to portray to the general public that he is associated with or endorsed by the plaintiffs as once the second infringing domain name / website located at www.tatacapitalfinance.in was taken down by the registrar vide order of the court dated 11.10.2013, the defendant no.1 registered yet another domain name and website at www.tatacapitalfinance.co.in only with an evil and ulterior motive to extort money from unwary loan seekers. Copies of the email correspondence exchanged by the plaintiffs' counsel with the Registrars of the abovementioned impugned domain names have been exhibited as **Ex.PW 2/7**.
26. PW2 has further deposed that the trademark TATA falls within the category of a well known trademark and due to its distinctive nature and popularity in several fields, the trademark TATA has become a well-known trademark, thus enabling the plaintiffs to restrain others from using its well known trademark.
27. PW2 has also deposed that the adoption of the impugned domain names www.tatacapitalfinance.com, www.tatacapitalfinance.in and www.tatacapitalfinance.co.in by the defendant no.1 was also not *bona fide*, since defendant no. 1 was trading on the fame and recognition of the plaintiffs' well-known trademark in order to cause initial interest, confusion and bait internet users into accessing his website and eventually forcing Internet users to purchase the products / services of the defendant no. 1.
28. PW2 has further deposed that the trademark TATA/ TATA CAPITAL are "well known" marks enjoying an expansive reputation and goodwill without boundaries of classification and that the TATA companies are engaged in a wide spectrum of activities using the trademark TATA / TATA CAPITAL

and the said trademark has come about to be exclusively recognized as the source indicator of the goods and business of the plaintiffs and the use of an identical trademark/name by the defendant would create confusion, and would dilute and tarnish the immense goodwill and reputation enjoyed by the mark.

29. PW2 has also deposed that the use of plaintiffs' mark/name TATA / TATA CAPITAL by defendant no.1 also amounts to false trade description as defined under the provisions of the Trade Marks Act, 1999, inasmuch as it induces the consumers and members of trade to falsely believe that the defendant no.1 has a direct nexus or affiliation with the plaintiff or the House of TATA, the defendant no.1 has been granted a license to use the trademark TATA / TATA CAPITAL in relation to this class of products; or the business of the defendants has been endorsed by the plaintiff.
30. PW2 has further deposed that the fraudulent and the illegal trade activities of the defendant no.1 is bound to cause incalculable harm and injury to the business, goodwill and reputation of the plaintiff and that the profits earned by the defendant no.1 in pursuance of its illegal activities amount to plaintiff's losses and unjust enrichment on the part of the defendant no.1.
31. Plaintiffs have also filed evidence by way of affidavit of Mr Subroto Panda (PW3), the Head of IT department of the Legal representatives of the plaintiffs. PW3 has deposed that his duties entail administering the Electronic resources of the legal representatives of the plaintiffs, including Internet.
32. PW3 has further deposed that the requirements of Section 65B of the Indian Evidence Act, 1872 with respect to documents downloaded have been complied with.

33. I have heard counsel for the plaintiffs and carefully perused the plaint along with the documents which have been placed on record and affidavit by way of evidence filed by the plaintiffs. The evidence of plaintiffs has gone unrebutted and unchallenged. Plaintiffs have proved that plaintiff no.1 is the proprietor of the trademark TATA and several TATA-formative trademarks in relation to various goods across various classes of the Fourth Schedule of the Trade Marks Rules, 2002 by virtue of priority in adoption, long, continuous and extensive use. Plaintiffs have also proved that the plaintiff no.1 owns trademark registrations for the word TATA in over 50 countries besides India and a list of some of the trademark registrations in favour of the plaintiff no. 1 comprising the word TATA in various classes has been placed on record. Plaintiffs have further proved that plaintiffs are the proprietors of the trade name TATA/ TATA CAPITAL and domain names www.tata.com and www.tatacapital.com respectively. Plaintiffs have relied upon various orders protecting the well-known trademark ‘TATA’ of the plaintiffs proving that the rights of the plaintiff company in the mark TATA have been recognized by courts/tribunals not only in India but also in different jurisdiction including WIPO which have been marked as **Mark O**. Plaintiffs have also relied upon documents pertaining to the well known status, reputation and goodwill enjoyed by the plaintiff no. 1 and its group entities which have been exhibited as **Ex.PW1/5**. A list issued by the trade mark registry acknowledging the plaintiff no.1 trademark TATA and the T Circle device as a well known trademark has been exhibited as **Ex.PW1/7**.
34. Section 2(1)(zg) of the Trade Marks Act, 1999 defines “well known trade mark”, in relation to any goods or services as a mark which has become so to the substantial segment of the public which uses such goods or receives such services that the use of such mark in relation to other goods or services

would be likely to be taken as indicating a connection in the course of trade or rendering of services between those goods or services and a person using the mark in relation to the first mentioned goods or services.

35. In the case of *Tata Sons Ltd v Manoj Dodia and Ors*, reported at 2011(46)PTC244(Del), following observations were made by another bench of this court with respect to the factors that ought to be looked into while considering what constitutes a “well known mark”:

“13. Trademarks Act, 1999 does not specify the factors which the Court needs to consider while determining whether a mark is a well known mark or not, though it does contain factors which the Registrar has to consider whether a trademark is a well known mark or not. In determining whether a trademark is a well known mark or not, the Court needs to consider a number of factors including (i) the extent of knowledge of the mark to, and its recognition by the relevant public; (ii) the duration of the use of the mark; (iii) the extent of the products and services in relation to which the mark is being used; (iv) the method, frequency, extent and duration of advertising and promotion of the mark; (v) the geographical extent of the trading area in which the mark is used; (vi) the state of registration of the mark; (vii) the volume of business of the goods or services sold under that mark; (viii) the nature and extent of the use of same or similar mark by other parties; (ix) the extent to which the rights claimed in the mark have been successfully enforced, particularly before the Courts of law and trademark registry and (x) actual or potential number of persons consuming goods or availing services being sold under that brand.”

36. In my view the mark of the plaintiff satisfies all the necessary ingredients for falling in the category of a well known mark.
37. The present matter relates to the same trademark TATA & TATA CAPITAL. On the basis of documents placed on record, the plaintiffs have

been able to establish that the plaintiff no. 1 is the registered owner of trade mark TATA/TATA CAPITAL and has the exclusive right to use the same. Plaintiffs have also been able to establish that the plaintiff No.2, namely Tata Capital Financial Services Ltd is a subsidiary of one of the group Companies of Plaintiff No.1, namely Tata Capital Limited and the plaintiff no. 2 has been authorized by plaintiff no.1 to use various trademark registrations in the name of the plaintiff no.1 vide an agreement dated 04.10.2013 titled Tata Brand Equity and Business Promotion Agreement. Further, plaintiffs have been able to establish that the plaintiffs have been continuously and consistently using the trade mark and trade name TATA, which is a rare patronymic name possessing the distinctiveness of an invented word, for its own business activities and those of companies promoted by it and that the trade mark TATA is uniformly perceived as indicative of the source of the plaintiffs. Plaintiffs have also been able to establish that the trademark TATA coupled with vast promotion and publicity enjoys an unparalleled reputation and goodwill and has acquired the status of a “well-known” trade mark. Further plaintiffs have been able to establish that defendant no.1 by adopting the impugned domain name www.tatacapitalfinance.com which is identical as a whole to the well known trademark and service mark TATA in which the plaintiffs have overwhelming statutory rights as well as common law rights, has misappropriated the well known trademark TATA of the plaintiffs.

38. In the case of *Evergreen Sweet House vs. Ever Green and Ors. Reported at 2008 (38) PTC 325 (Del)*, it was observed as under:

“15. A mark is said to be deceptively similar to another (Section 2(1) (h), Trademarks Act, 1999) if it so nearly resembles that other mark as to be likely to deceive or cause confusion. Section 29(1)

deals with a situation where the Defendant uses a mark, which is identical or deceptively similar to that of the Plaintiff, in respect of the same goods or services, and in such a manner that it is likely that such use is taken as being an use as a trademark. This amounts to infringement. To fall within section 29(1), the defendant's use of the mark must be so that it is likely that the public assumes that the said mark is used as a trademark. Section 29(2) deals with three situations; one where the defendants mark is identical to that of the plaintiff and in respect of similar goods. Two, where the, marks are similar and in respect of goods which are identical or similar. Three, the marks as well as the goods are identical. Infringement does not take place if only one of the three ingredients are satisfied; the plaintiff has to prove that use by the defendant is likely to cause confusion on the part of the public or is likely to have an association with the registered mark.”

39. The Apex Court in the case of *Laxmikant V Patel v. Chetanbhai Shah And Another* reported at (2002) 3 SCC 65, has laid down the test of confusion/deception in order to prove the case of passing off. Relevant para of the aforesaid judgment reads as under:

“A person may sell his goods or deliver his services such as in case of a profession under a trading name or style. With the lapse of time such business or services associated with a person acquire a reputation or goodwill which becomes a property which is protected by courts. A competitor initiating sale of goods or services in the same name or by imitating that name results in injury to the business of one who has the property in that name. The law does not permit any one to carry on his business in such a way as would persuade the customers or clients in believing that he goods or services belonging to someone else are his or are associated therewith. It does not matter whether the latter person does so fraudulently or otherwise. The reasons are two. Firstly, honesty and fair play

are, and ought to be, the basic policies in the world of business. Secondly, when a person adopts or intends to adopt a name in connection with his business or services which already belongs to someone else it results in confusion and has propensity of diverting the customers and clients of someone else to himself and thereby resulting in injury.”

40. Having regard to the evidence on record, I am of the view that defendant no.1 who is engaged in identical business activities as that of plaintiff no. 2 like providing loans, insurance, financial services etc. by adopting the impugned domain name www.tatacapitalfinance.com which includes the plaintiff's mark/word TATA, has clearly infringed the trade mark rights vesting in favour of plaintiffs. Also the website of defendant no. 1 www.tatacapitalfinance.com which is an exact replica of website of the plaintiff no. 2 www.tatacapital.com is bound to create confusion in the minds of the public with respect to its origin and any average internet user would presume that the defendant no. 1 is associated or endorsed by the plaintiffs and has a direct nexus or affiliation with the plaintiffs thereby passing off their goods/services as that of the plaintiffs and tarnishing the immense goodwill and reputation enjoyed by the plaintiffs in the mark TATA. Further, defendant no. 1 had made a fake letterhead which would appear to any person to be the letterhead of plaintiff's company which clearly shows that the intention of defendant no. 1 was dishonest with a sole ulterior objective to mislead and cheat unsuspecting customers and trade on the fame and recognition of the plaintiff's well known trade mark.
41. Plaintiffs have also prayed for damages for loss of reputation and business. It would be useful to refer to the judgment in the case of *Time Incorporated v. Lokesh Srivastava and Anr.*, reported at 116(2005) DLT 599 wherein this court has observed as under:

“This court has no hesitation on saying that the time has come when the courts dealing actions for infringement of trademarks, copyrights, patents etc. should not only grant compensatory damages but award punitive damages also with a view to discourage and dishearten law breakers who indulge in violations with impunity out of lust for money so that they realize that in case they are caught, they would be liable not only to reimburse the aggrieved party but would be liable to pay punitive damages also, which may spell financial disaster for them”.

42. I am of the view that damages in such cases must be awarded and a defendant, who chooses to stay away from the proceedings of the court, should not be permitted to enjoy the benefits of evasion of court proceedings. A party who chooses to not participate in court proceedings and stays away must, thus, suffer the consequences of damages as stated and set out by the Plaintiff. There is a larger public interest involved to discourage such parties from indulging in such acts of deception and thus, even if the same has a punitive element, it must be granted.
43. For the reasons stated above, the plaintiffs have made out a case for grant of decree as prayed in the plaint. Accordingly, the order dated 15.10.2014 is confirmed and the suit is decreed in favour of the plaintiffs and against the defendant no. 1. The domain name shall be transferred on receipt of copy of the judgment. Plaintiff is also entitled to damages to the tune of Rs 5.0 lacs.
44. Decree sheet be drawn up accordingly.

G.S.SISTANI, J

OCTOBER 15, 2014 ssn