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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 21.03.2017

Decided on : 17.05.2017

+ CS(COMM) 136/2016 & I.A. 13627/2013

RAM KRISHAN & SONS CHARITABLE TRUST..... Plaintiff

Through: Mr. Sandeep Mittal, Advocate.

versus

ILM CONSULTING PVT LTD. Defendant

Through: Defendant is *ex-parte*.

CORAM:

HON'BLE MS. JUSTICE DEEPA SHARMA

JUDGMENT

1. The case of the plaintiff is that it is a registered Trust and is engaged in the field of providing educational services and running various Senior Secondary Schools, Management Institutes, Engineering College, Pharmacy College etc. The plaintiff set up a school in the year 1986 and a management institute by the name of "Institute for Integrated Learning in Management" i.e. IILM in the year 1993. That the plaintiff is very well known in the field of

education and has a distinctive name and fame in that field. It has a registered trademark “IILM” and ‘IILM Foundation’ and also logo of IILM Law School. It has been extensively using the said trademark and also advertising under the said logo and trade mark. It is contended that by virtue of extensive sales promotions and activities in respect of its education institutes, “IILM” is synonymous only with the plaintiff. It has also earned good will, reputation and fame.

2. In the year 2013, the plaintiff came to know that the defendant is using trademark ILM which is identical/deceptively similar to that of plaintiff’s trademark IILM. The defendant is using the said trademark for consulting services to educational institutions and for promoting professional education and employability skill practices. The defendant is also running the placement and recruitment program and operating a website in the name www.ilmcampus.com which is also identical and deceptively similar to plaintiff’s websites, www.iilm.edu, www.iilm.in and www.iilm.ac.in .

3. It is submitted that since the defendant’s academy is also engaged in the educational and employment opportunities, the public at large feels that it is the extension of the plaintiff’s

academy/institution. The notice dated 02.07.2013 was sent to the defendant asking them to desist from using the abbreviation ILM. The notice however was received back as undelivered. It is submitted that the plaintiff is suffering financial loss and also loss in the reputation due to the infringement of their trademark by the defendant. It is further submitted that plaintiff is carrying on business within the jurisdiction of this Court. On these facts, it is prayed that the defendant, its directors, principles, proprietor, partner, employees, agents, distributors, franchisees representatives and assigns be restrained by way of *ad-interim* injunction from manufacturing, selling, marketing, advertising or using the trade mark ILM which is similar to the plaintiff's registered trade mark IILM and also the websites www.iilm.edu, www.iilm.in and www.iilm.ac.in.

4. The summons were issued to the defendant which were duly served but none on its behalf had attended the Court proceedings and they were proceeded *ex-parte* vide order of this Court dated 07.05.2014.

5. The plaintiff led *ex-parte* evidence and examined Mr. Anil Kanodia in order to prove its case. The witness has duly proved on

record the Trust deed dated 30.10.1980 as Ex. PW- 1/1 and has also proved the registration certificates of the trademark IILM and its logo vide documents Ex. PW-1/2 to Ex. PW -1/7 and Ex. PW -1/11. The trademark of IILM Foundation is proved as Ex. PW- 1/8 to Ex. PW - 1/10. The printout of the plaintiff's websites is proved as Ex. PW - 1/31 and that of defendant's website as Ex. PW- 1/48. The defendant's advertisement on social networks is also proved as Ex. PW- 1/49. The witness has also proved on record its brochure and prospectus as Ex. PW -1/32 to Ex. PW- 1/46. He has also proved the approval from AICTE vide documents Ex. PW- 1/13 to Ex. PW -1/22 for establishment of plaintiff's College of Engineering and IILM Academy of Higher Learning at Greater Noida and for an integrated course as Ex. PW -1/23 and for College of Management Studies as Ex. PW 1/25 to PW 1/29.

6. I have heard the arguments and perused the relevant record.
7. The plaintiff has successfully proved that it is a Charitable Trust and that it is the owner of the registered trademark IILM and its logo and also running the websites as Ex. PW 1/31 and had circulated its brochure and prospectus. The petitioner's witness has also clearly

stated that the plaintiff enjoys goodwill and reputation in the educational field and is maintaining a high standard and that is why the public at large in India prefers their institution. It qualifies to be well known trademark and as soon as anybody takes the name of IILM, it is the plaintiff's institution which comes to the mind of the public. The witness has also proved that general public while surfing the internet, may come across the defendant's website i.e. www.ilmcampus.com which is deceptively similar to that of plaintiff's websites i.e. www.iilm.edu, www.iilm.in and www.iilm.ac.in and would think that they are surfing the plaintiff's websites because the defendant is also engaged in an educational field including the placement of the students and providing them with educational and employment opportunities.

8. The plaintiff's witness has proved on record that the defendant is using the said websites and also using the abbreviation ILM for their academy, both are deceptively similar to that of registered trademark of the plaintiff and its websites. Section 28 of the Trademarks Act, 1999 clearly envisages that the registered proprietor of the trademark has the exclusive right to use the said trademark in

relation to goods or services in respect of which the trade mark is registered. Section 29 (1) of the Trademarks Act, 1999 clearly states that where a person infringes a registered trademark of a proprietor which is identical with, or deceptively similar to, the trade mark in relation to services or goods in respect of which the trademark is registered, then they are infringing the rights of the registered owner of the said trademark.

9. The trademark of the plaintiff is “IILM” and one which the defendant is using as “ILM” and I am satisfied that the defendant is using the deceptively similar trademark of the plaintiff and since it is also in the business of education and running an academy for providing students with educational and employment opportunities. Defendant is also using the website which is also deceptively similar to that of the plaintiff’s websites. I am satisfied that the right of the plaintiff has been infringed and therefore the plaintiff has a right to protect his trademark. Accordingly, the suit is decreed and by way of this *ex-parte* order, the defendant, it’s directors, principles, proprietors, partners, representative, assigns are hereby restrained from selling, using, manufacturing, advertising the institute under the

trade mark ILM or any other identical or deceptively similar name to the plaintiff's institute 'IILM' in respect of providing educational opportunities to students and are also restrained from using website with the domain name www.ilmcampus.com.

Decree sheet be prepared. No order as to cost.

MAY 17, 2017

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**DEEPA SHARMA
(JUDGE)**