

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****SUIT (L) NO. 394 OF 2015****WITH****LEAVE PETITION NO. 87 OF 2015****WITH****NOTICE OF MOTION (L) NO. 1204 OF 2015**

Mitesh Girdhar Thakkar & Anr.

...Plaintiffs

vs.

Pravin Pandharinath Patil

...Defendant

Mr.Ashutosh Kane with Mr.Nikhil Sharma i/b. M/s.W.S. Kane & Co. for Plaintiffs.

Mr.Girdhar Lalji Thakkar, Plaintiff No.2 in person.

Mr.Rohan Mahadik for Defendant.

Mr.Pravin Pandharinath Patil, Defendant in person.

CORAM : S.C. GUPTE, J.**28 APRIL 2015****P.C. :**

By consent of parties, the leave petition under clause 14 of the Letters Patent is made absolute in terms of prayer clause (a).

2 Learned Counsel for the Defendant submits that the Defendant, who is present in person in Court, submits to a decree in terms of prayer clauses (a), (b) and (c) of the plaint. Accordingly, there will be a decree on admission in terms of prayer clauses (a), (b) and (c), which are quoted below :

(a) that the Defendant by himself, his servants, agents, stockists, distributors, dealers and all persons claiming through him be restrained by an order and permanent injunction of this Hon'ble Court from infringing the Plaintiffs'



registered trade marks under registration Nos.1380299 in class 35 and 2364108 in class 25 respectively by use of the impugned trade mark GIKAIDO as more particularly shown at Exhibits “J-1” and “J-2” hereto or any other trade mark containing the word GIKAIDO or any other word deceptively similar thereto or any other trade mark deceptively similar to the Plaintiffs’



registered trade marks under registration Nos.1380299 in class 35 and 2364108 in class 25 respectively in respect of the goods and/or services covered by the Plaintiffs’ registrations or like goods/ services or in any other manner whatsoever;

(b) that the Defendant by himself, his servants, agents, stockists, distributors, dealers and all persons claiming through him be restrained by an order and permanent injunction of this Hon’ble Court from infringing Plaintiff



No.1's copyright subsisting in the said logo by reproducing and/or publishing and/or using the impugned



logo or any other logo which is a reproduction of Plaintiff No.1's said logo or substantial part thereof or in any other manner whatsoever;

(c) that the Defendant by himself, his servants, agents, stockists, distributors, dealers and all persons claiming through him be restrained by an order and permanent injunction of this Hon'ble Court from conducting, promoting or advertising the impugned business of manufacturing and/or retailing of goods relating to martial arts in general and karate in particular or like business under the impugned trade mark and/or the impugned logo or under other trade mark/ logo identical with or deceptively similar to the Plaintiffs' said well-known trade marks



and GIKAIDO as also the



said logo , so as to pass off or enable others to pass off the impugned business as and for the Plaintiffs' well-known business or in any other manner whatsoever.

3 Learned Counsel for the Plaintiffs does not press for other prayers including the prayer of costs.

4 The Suit is, accordingly, disposed of. Refund of Court fees in accordance with the applicable Rules. No order as to costs.

5 The Defendant undertakes to the Court to withdraw his application for registration of the trade marks "KARATE GIKAIDO SPORTS" being the subject matter of trade mark application Nos.2599650 and 2599651. The undertaking is accepted.

6 The Defendant also states that the publicity material in possession

of the Defendant as on the date of the suit in respect of the offending marks has already been destroyed by the Defendant. The statement is accepted.

7 In view of the disposal of the suit, Notice of Motion (Lodging) No.1204 of 2015 does not survive and the same is also disposed of.

(S.C. Gupte, J.)