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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION (L) NO. 92 OF 2015
IN
SUIT NO. 633 OF 2013**

Raymond Limited

...Petitioner.

VS

M/s Ashirbad Electricals & Ors.

...Respondents.

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Mr Virag Tulzapurkar Sr. Advocate a/w Hiren Kamod, Mustafa Safiyuddin,
Vaibhav Keni, Sumeet Rane, Hassan Safiyuddin i/b Legasis Partners for the
Petitioners.

Mr Devasis Mitra i/b Legal Assistance for the Respondents.

Mr V.D.Phatak representative of Court Receiver.

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CORAM : S.C. GUPTE, J.

JANUARY 08, 2016

P.C. :

This Contempt Petition is taken out by the original Plaintiff seeking committal of the original Defendants for having committed contempt of court by a willful breach and disobedience of the order of injunction passed by this Court on 23 August 2013. The Defendants were, at that time, using the trademark 'Raymond'. By the decree and order dated 23 August 2013, the Defendants were restrained from using the trademark 'Raymond' or any other mark deceptively similar to the mark 'Raymond', of which the Plaintiff is the registered proprietor. It appears that in Trademark Journal issued on 3 August 2015, there was an advertisement of the Defendants' application for registration of the trademark "Raimond". The trademark "Raimond" being deceptively similar to the trademark "Raymond", which the Defendants were restrained from using, the Plaintiffs have filed the present Contempt Petition. It appears that by an ad-interim order passed in the Contempt Petition, the Defendants (i.e. Respondents to the Contempt Petition) were restrained from using the mark "Raimond". By this ad-interim

order, this Court also appointed a Court Receiver for visiting the premises of the Defendants, to seal any goods belonging to the Defendants bearing the mark "Raimond". It appears that the Receiver's representative visited the premises of the Defendants, but apparently found nothing in the premises bearing the mark "Raimond". In the premises, on 23 December 2015, this Court with a view to test the bonafides of the Defendants, passed an order directing them to file an undertaking in the form of an affidavit to the effect that no other application was made by them in respect of any similar mark, and that they would apply only for registration of the three marks then in contemplation, namely, "Shristi", "Reyhansh" and "Ashirbad" which are the names of the grandchildren of Defendant No.2. In pursuance of this order, the Defendants have furnished an undertaking stating that they have not made any other application in respect of "Raimond" or any deceptively similar mark thereto and that they would apply only for registration of three marks, namely, "Shristi", "Reyhansh" and "Ashirbad" for their goods. Defendant Nos.3 and 4, who are the sons of Defendant No.2, have also filed an undertaking in the form of an affidavit to the effect that they shall not, in any manner, use the mark "Raymond", "Raimond" or any other similar mark or name. The Defendants through their Counsel unconditionally apologize for having earlier used the mark "Raimond" in respect of their goods and they further undertake in terms of the affidavits, which they have filed before this Court, that they shall in future not make use of any mark by using words "Raymond", "Raimond" or any other visually or phonetically similar mark or name. Having regard to the unconditional apology tendered by the Defendants and the fact that they have already discontinued use of the mark "Raimond" (the Receiver has, accordingly, found no goods bearing the mark "Raimond" at the Defendants' premises) and further in view of the undertaking given to the Court in the form of an affidavit and reiterated today across the bar, no process needs to be issued against the Defendants (i.e. Respondents) in the contempt jurisdiction of this Court. Accordingly, unconditional apology tendered by the Respondents across the bar and the undertaking furnished in the affidavit, as noted above, are accepted and the Contempt Petition is disposed of. Learned Counsel for the Respondents states that the Respondents have already applied for cancellation of registration of the mark "Raymond" and withdrawal of their application for

registration of the mark "Raimond". The Trade Marks Registry shall expeditiously act on these applications so that the registration is cancelled and the application is withdrawn with immediate effect. The Court Receiver appointed in the matter earlier to stand discharged without passing accounts, but subject to payment of his costs, charges and expenses, which are quantified at Rs.15,000/-. These costs, charges and expenses shall be paid by the Respondents. Since, the Plaintiffs have already deposited the costs of the Receiver in the sum of Rs.15,000/-, the Respondents shall reimburse the Plaintiffs towards these costs in terms of this order. Needless to add that, apart from the orders passed today *inter alia* accepting the undertaking of the Respondents, the interim orders passed by this Court on 21 August 2015 and 23 December 2015 shall continue to operate. The Contempt Petition is disposed of accordingly.

(S.C.GUPTE J.)