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

+ CS(OS) No.182/2007

TATA SONS LIMITED

..... Plaintiff

Through: Mr. Achuthan Sreekumar and Mr.
Karan Kamra, Advs.

versus

CHIN KWO HO. & ORS.

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **28.09.2016**

1. The plaintiff has filed the present suit for permanent injunction to restrain the three defendants from using the trademark 'TATA' amounting to infringing the trademark of the plaintiff and passing off their goods as that of the plaintiff and for ancillary reliefs.
2. The suit was entertained and vide *ex parte* order dated 2nd February, 2007 the defendants were restrained from selling office products and stationery under the trademark 'TA TA'.
3. The defendant no.3 M/s. Pushpa Agencies, Mumbai failed to appear despite service and was on 2nd May, 2007 proceeded against *ex parte*.
4. The defendants no.1&2 appeared and filed a written statement and on the pleadings of the parties issues were framed on 31st October, 2008.
5. The plaintiff tendered one of its witnesses in evidence. The counsel for the defendants no.1&2 took repeated adjournments for cross examination of the said witness and ultimately on 25th July, 2011 sought discharge and was on 26th February, 2013 discharged from appearance and Court notice issued to the defendants no.1&2 namely Chin Kwo Ho and M/s. Ta Ta

Office Products Inc., Taiwan and upon their failure to appear were on 11th April, 2013 proceeded against *ex parte*.

6. Vide order dated 22nd July, 2016 the *ad interim* order dated 2nd May, 2007 was confirmed.

7. The plaintiff thereafter completed its *ex parte* evidence.

8. On perusal of the pleadings and the *ex parte* evidence of the plaintiff I am satisfied that the plaintiff has made out a case for grant of injunction in terms of prayer paragraph 22 (i) & (ii) of the plaint.

9. There is no cogent evidence led by the plaintiff with respect to damages. However, considering that the defendant no.1&2 inspite of cease and desist persisted in using the infringing mark and also applied for registration and which was ultimately not granted, it is deemed appropriate to award nominal damages in the sum of Rs.2,00,000/- to the plaintiff against the defendants no.1&2.

10. A decree is accordingly passed in favour of the plaintiff and (i) against the defendants no.1 to 3 of permanent injunction in terms of prayer paragraph 22 (i) & (ii) of the plaint; and, (ii) against the defendants no.1&2 jointly and severally for recovery of damages in the sum of Rs.2,00,000/-.

11. The plaintiff shall also be entitled to costs of the suit from the defendants no.1&2.

12. Counsel's fee assessed at Rs.50,000/-.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 28, 2016

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