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

+ **CS(OS) 1601/2005**

AKTIEBOLAGET VOLVO & ORS. Plaintiffs
Through: Mr. Pravin Anand, Mr. Raunaq
Kamath and Ms. Anjana Ahluwalia,
Advts.

Versus

USHARANI J. & ORS. Defendants
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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22.11.2016

1. The plaintiffs have instituted this suit for permanent injunction restraining the 19 defendants from manufacturing, selling, offering for sale, exporting, advertising, directly or indirectly dealing in buses or any other products and services under the trademark 'VOLVO' or any other mark deceptively similar thereto and from passing off their goods/businesses as that of the plaintiffs and for ancillary reliefs.
2. The suit was entertained and vide *ex-parte* ad-interim order dated 24th November, 2005 the defendants were restrained from using the trademark 'VOLVO' infringing the trademark of the plaintiffs.
3. The defendants No.1 to 3 & 6 to 19 filed written statements and to which replications were filed by the plaintiffs.
4. Vide order dated 10th November, 2008, the following issues were framed in the suit:

“1. Whether the Plaintiff No.2 is the registered proprietor of the trademark VOLVO? OPP”

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2. *Whether the use of the mark VOLVO by the Defendants on their buses amounts to infringement of the Plaintiff's registered trademark VOLVO? OPP*
3. *Whether the use of the trademark VOLVO by the Defendants amounts to passing off their goods and services as that of the Plaintiffs? OPP*
4. *Relief?"*

5. The counsel for the plaintiffs states that the suit, insofar as against the defendants No.18&19 namely S.M. Kannappa Automobiles and Prakash Coach Builders, was decreed on 28th March, 2016.

6. On 15th November, 2010, all the other defendants were proceeded against *ex-parte*.

7. The plaintiffs have led their *ex-parte* evidence.

8. I have perused the un-rebutted evidence of the plaintiffs and find the plaintiffs to have made out a case for grant of relief of *ex-parte* injunction in terms of prayer paragraph 31(i), (ii) & (iii) of the plaint.

9. The counsel for plaintiffs does not press for the other reliefs.

10. Considering that the suit has remained pending for the last eleven years, the plaintiffs are found entitled to costs thereof.

11. A decree is accordingly passed in favour of the plaintiffs and against the defendants No.1 to 17, for permanent injunction in terms of prayer paragraph 31(i), (ii) & (iii) of the plaint. The plaintiffs shall also be entitled to costs of the suit, with counsel's fee assessed at Rs.1 lakh, recoverable from the defendants No.1 to 17 jointly and severally.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 22, 2016/bs..

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