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

+ CS(OS) 442/2015 & IA No.3446/2015 (u/O 39 R-1&2 CPC)

TATA SONS LIMITED

..... Plaintiff

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

Versus

MAHAVEER PARMAR & ORS

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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02.08.2016

1. The plaintiff has sued the defendants No.1 to 8 namely Mr. Mahaveer Parmar, Mr. Hetal Shah, M/s Shashwat Engineering Corp. Mr. Ajay Patel, M/s Philips Engineers, Mr. Ajit Yadav, M/s Blue Power Systems and M/s Ajit Generators for permanent injunction restraining the defendants from carrying on business using the mark / name 'TATA' or any other mark / name similar or deceptively similar to the plaintiff's registered trademark 'TATA' and for ancillary reliefs.

2. The suit was entertained and vide *ex-parte* ad-interim order dated 20th February, 2015 the defendants restrained from manufacturing, selling, offering for sale, advertising generators bearing the mark / name TATA and/or any other mark which is deceptively similar or identical to the plaintiff's trademark TATA. Vide the same order, Court Commissioners were also appointed to visit the premises of the defendants.

3. None appeared for the defendant No.2 despite service.
4. None appears for the defendants No.3 to 5 despite service.
5. The counsel for the defendants No.6 to 8 earlier stated that the said defendants were willing to settle the matter with the plaintiff.
6. The counsel for the plaintiff states that the said defendants did not however approach for any settlement.
7. The defendants No.6 to 8 have also not filed any written statement and are today not even appearing before the Court.
8. Though the service report of defendant No.1 is awaited but the counsel for the plaintiff points out that the defendants No.1&2 are the proprietors of the defendant No.3 and the defendant No.1 through the service of defendants No.2&3 is aware of the present suit. It is also stated that the defendant No.1 knows of the present suit from the execution of the commission also.
9. The defendants who have not already been proceeded against *ex-parte*, are now proceeded against *ex-parte*.
10. The plaintiff on the basis of pleadings in the plaint duly supported by affidavit, documents and the report of the commission filed has made out a case for grant of the relief of permanent injunction claimed.
11. For the reasons detailed in ***The Indian Performing Right Society Ltd. Vs. Gauhati Town Club*** MANU/DE/0582/2013 there is no need to relegate the plaintiff to lead *ex-parte* evidence.
12. Thus, a decree is passed in favour of the plaintiff and against the defendants, of permanent injunction in terms of paragraph 42(i) to (iii) of the plaint and also for destruction of the infringing goods seized by the Court

Commissioners and given on *superdari* to the defendants / their representatives.

13. The defendants are directed to, within fifteen days of the service by the plaintiff of copy of this order and in the presence of the authorised representative of the plaintiff, destroy the infringing goods seized by the Court Commissioners and given on *superdari* to the defendants/their representatives.

14. The plaintiff is also entitled to recover costs of this suit of Rs.2 lakhs jointly and severally from the defendants.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

AUGUST 02, 2016

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