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

+ **CS(OS) 1378/2011**

MALHOTRA BOOK DEPOT & ORS Plaintiffs

Through: Mr.Sidhant Goel, Mr.Mohit Goel &
Ms.Shweta Duggal, Advs.

versus

MBD TRADEFIN PVT LTD Defendant

Through: None

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **28.01.2016**

1. This suit has been filed by the plaintiffs alleging infringement of its trademark 'MBD' by the defendant company. 'MBD' is the short form of 'Malhotra Book Depot'. Defendant has been served in the suit but failed to appear. As defendant was not available for service by ordinary way, he was served by publication in the newspaper 'Statesman' English publication and 'Dainik Jagran' Bengali publication. Defendant was proceeded ex parte by the order of the learned single judge dated 16.11.2012.

2. Plaintiffs have filed affidavit by way of evidence of Mr. Rohit Mehta and as per which affidavit it has shown that plaintiffs have started business with the trademark 'MBD' in around year 1956. Activities of the plaintiffs under the trademark 'MBD' have diversified into paper manufacturing, real estate, mall development, business of software and content services, IT business etc. The consolidated sales turnover of the plaintiff no. 1 since 1982-1983 till 2009-2010 is over Rs.682 crores. The details of the

trademark registered in favour of the plaintiff and pending registration are contained in paragraph 15 of the plaint. The certificate of registration and renewal certificates of trademarks have been proved as Ex. PW 1/8 and pending applications for registration are proved as Ex. PW1/9. The copies of the brochures, invoices and accounts statement of the plaintiffs have been proved as Ex. PW1/10 and PW 1/13. The invoices for registration of domain names of the plaintiffs and few sales invoices reflecting sale of education books by the plaintiffs have been proved as Ex. PW 1/14.

3. Plaintiffs before filing of the suit had issued a legal notice dated 19.09.2010 to the defendant for desisting from using trademark of the plaintiffs but this legal notice was returned with the remarks that the addressee had left. This legal notice is proved as Ex. PW1/7.

4. The aforesaid facts which are proved show that the plaintiffs are the owners of the registered trademark 'MBD'; as also owner of the unregistered trademark 'MBD'; and which is used for various diversified business. For additional 'MBD' trademarks registration applications are pending.

5. In view of the discussion herein above, plaintiffs have proved its entitlement to seek injunction against the defendant from using the trademark/trade name 'MBD', and therefore, defendant or any one claiming under the defendant is restrained from using the trademark 'MBD' or any other trademark or trade name deceptively similar to the trademark 'MBD' of the plaintiff.

6. Learned counsel for the plaintiff does not press for any relief of damages against the defendant.

7. In view of the above, the suit is decreed by granting injunction in favour of the plaintiff and against the defendant as stated above. Parties are left to bear their own costs.

VALMIKI J. MEHTA, J

JANUARY 28, 2016*/hkaur*

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