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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 1255/2008, IA Nos.7711/2008 (u/O 39 R-1&2 CPC),
8969/2008 (u/O 39 R-4 CPC), 8970/2008 (u/O 39 R-6 CPC) &
9029/2008 (u/O 39 R-2A CPC)
ABRO INDUSTRIES, INC. Plaintiff

Through: Mr. Ankur Manchanda, Adv.

Versus

BALJINDER SINGH & OTHERS Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.08.2016

1. The plaintiff has sued the eight defendants viz. Baljinder Singh, Pankaj Arora, Bharat Gautam, Nitin Jain, Moonwaves Inc., New Delhi Motor House, ABRO Energy P. Ltd. and Star Transformers for permanent injunction restraining the defendants from using the trademark and trade name "ABRO" and / or any other trademark or name similar or deceptively similar to the plaintiff's trademark / trade name "ABRO" and for ancillary reliefs.
2. The suit was entertained and vide *ex parte* ad-interim order dated 8th July, 2008 which continues to be in force the defendants restrained from passing off their products as those of the plaintiff by using the trademark and name "ABRO". Commissioners were also appointed to visit the premises of the defendants and to seize the infringing goods / articles.
3. None appeared for the defendants no.3 to 6 and 8 who were proceeded *ex parte* vide order dated 13th March, 2012. A written statement was filed on behalf of the defendants no.1,2 and 7 and to which a replication was filed by the plaintiff.

4. However the counsel who was appearing for the defendants no.1, 2 and 7 also sought discharge as far back as on 13th March, 2012 on the ground that the said defendants were not instructing him and was discharged and since then through none has been appearing for the defendants but the suit has been languishing for the last over four years.

5. The counsel for the plaintiff today also seeks adjournment stating that he needs to obtain instructions from the plaintiff whether to proceed with the suit or not, as the defendant no.7 ABRO Energy Pvt. Ltd. is learnt to have closed its business.

6. On enquiry, whether the infringement is still taking place or not, the counsel for the plaintiff states that it needs to be checked.

7. It is quite evident that the plaintiff has not been following up the case diligently for a long time of last more than four years. Suits cannot be kept pending in this fashion.

8. Now that the plaintiff is not even aware whether the cause of action is still subsisting or not and now that the defendant no.7 ABRO Energy Pvt. Ltd. is reported to have shut down its business, the suit is disposed of as having become infructuous and leaving the parties to bear their own costs.

RAJIV SAHAI ENDLAW, J

AUGUST 08, 2016

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