

\$~4.

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

+ **CS(OS) No.1261/2008**

M/S L'OREAL

..... Plaintiff

Through: Mr. Ajayu Amitabh Suman and Mr.
S.K. Bansal, Advs.

versus

M/S SIGMA ENTERPRISES & ANR

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

19.09.2016

1. The plaintiff has instituted this suit to restrain the two defendants namely M/s Sigma Enterprises, Thane and My Dollar Store, Mumbai from using, selling, soliciting, exporting, importing, distributing, displaying, advertising or in any other manner using the trademark 'L' OREAL' with or without the trademark 'PARIS' and/or 'ELVIVE' or any other word/mark which may be identical with and/or deceptively similar to the plaintiff's trademark/label/copyright in 'L'OREAL' 'PARIS' and 'ELVIVE' in relation to cosmetics, toiletries, hair care products, shampoos and allied products and thereby 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 ad interim* order dated 8th July, 2008 which continues to be in force, the defendants were restrained from selling and dealing with counterfeit products with the trademark 'L'OREAL' with or without the mark 'PARIS' and 'ELVIVE' as shown at page 2 of list of documents dated 20th June, 2008 of the plaintiff.

3. The defendant no.1 could not be served by ordinary mode and was ordered to be served by publication; none appeared for the defendant no.1 despite publication and the defendant no.1 was vide order dated 16th January, 2015 held liable to be proceeded against *ex parte*.
4. The defendant no.2 in its written statement took a plea that the juristic entity which owns the My Dollar Store was infact M/s. Sankalp Retail Value Stores Pvt. Ltd.; vide order dated 15th April, 2009 the said M/s. Sankalp Retail Value Stores Pvt. Ltd. was substituted in place of defendant no.2 My Dollar Store. However thereafter the defendant no.2 also stopped appearing and vide order dated 20th February, 2015 the plaintiff was directed to lead *ex parte* evidence.
5. The plaintiff in its *ex parte* evidence has examined its constituted attorney Ms. Surbhi Bansal and closed its evidence.
6. The counsel for the plaintiff has been heard.
7. The plaintiff, on the basis of its pleadings and *ex parte* evidence led, has made out a case for grant of permanent injunction in terms of prayer paragraph 32(a) of the plaint. However I do not find the plaintiff to have led any evidence of the damages if any recoverable by the plaintiff from the defendants. Suffice it would be to award actual costs of the suit to the plaintiff.
8. Accordingly, a decree is passed in favour of the plaintiff and against the defendants M/s. Sigma Enterprises, A-804, Madhuban Heights, Bhayander, Thane-401106 and M/s Sankalp Retail Value Stores Pvt. Ltd., 401-A, Ramji Premji Apartments, 262 S.V. Road, Borewalle (W), Mumbai-400092 in terms of prayer paragraph 32(a) of the amended plaint verified on

13th July, 2009.

9. The plaintiff shall also be entitled to costs of the suit.

10. Counsel's fee assessed at Rs.1,00,000/-.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 19, 2016

'pp'..