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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) No.2171/2007 & IA No.12572/2007 (under Order XXXIX
Rules 1&2 CPC).

L'OREAL

..... Plaintiff

Through: Mr. Amit Chanchal Jha, Adv.

versus

ABDUL RASHID & ORS.

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **19.12.2016**

1. The plaintiff has instituted this suit to restrain the defendants from dealing in or using the trademark 'GARNIER' or any other word mark which may be identical with or deceptively similar to the plaintiff's trademark 'GARNIER' amounting to infringement of the registered trademarks no.491768 and 1041162 in Class-3 'GARNIER' and the defendants passing off their goods as that of the plaintiff and for ancillary reliefs.

2. The suit as per the amended memo of parties is against seven defendants and of which defendant no.3 Mr. M. Alam was deleted vide order dated 7th July, 2009 and the suit insofar as against the defendant no.6 M/s. Niyaz Sons was disposed of vide order dated 11th August, 2008. The defendants no.1&2 i.e. Mr. Abdul Rashid and M/s A to Z Centre have been proceeded against *ex parte* vide orders dated 11th August, 2008 and 6th November, 2008.

3. The learned Joint Registrar has in order dated 15th November, 2016 recorded that the defendants no.4,5&7 have not filed their written statements

inspite of service and closed the right of the defendants no.4,5&7 to file written statements and placed the suit before this Bench.

4. None appears for any of the defendants.

5. The defendants no.4,5&7 namely M/s Beauty Centre, M/s Kushboo Cosmetics and Mr. Ali Syada are also proceeded against *ex parte*.

6. For the reasons stated in ***Satya Infrastructure Ltd Vs. Satya Infra & Estates Pvt. Ltd.*** 2013 (54) PTC 419 (Del), the need to relegate the plaintiff to lead *ex parte* evidence against defendants no.1,2,4,5&7 is not felt.

7. The plaintiff, on the basis of pleadings and the documents filed, is found to be entitled to the relief of permanent injunction as claimed in prayer paragraph 36(a) of the plaint.

8. The defendants having not contested the suit and in fact having been served by publication, it is felt that no purpose will be served in letting the plaintiff lead evidence on the aspect of damages claimed.

9. A decree is accordingly passed in favour of the plaintiff and against the defendants no.1,2,4,5&7 namely Mr. Abdul Rashid, M/s A to Z Centre, M/s Beauty Centre, M/s Kushboo Cosmetics and Mr. Ali Syada in terms of prayer paragraph 36(a) of the plaint. The plaintiff shall also be entitled to costs of this suit jointly and severally from the defendants no.1,2,4,5&7.

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

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

DECEMBER 19, 2016

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