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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) No.933/2016 & IA No.8797/2016 (u/O 39 R-1&2 CPC).
H.A.G IMPORT CORPN (AUSTRALIA) PTY LTD Plaintiff
Through: Ms. Shwetasree Majumder and Mr.
Prithvi Singh, Advs.

versus

KUMAR & SONS AND ANR Defendants
Through: Mr. Manish Chauhan, Adv. for D-1.
Mr. Sandeep S. Duggal, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **17.08.2016**

1. The plaintiff instituted this suit for permanent injunction to restrain the two defendants i.e. Kumar & Sons, Saharanpur, Uttar Pradesh and KS Hotelwares, Sadar Bazar, Delhi from using a logo deceptively similar to the plaintiff's "MAXWELL & WILLIAMS" trademark resulting in passing off by the defendants of their goods as those of the plaintiff's and for ancillary reliefs.
2. Summons of the suit were issued.
3. The counsel for the defendant no.1 Kumar & Sons, Saharanpur and the counsel for the defendant no.2 KS Hotelwares, Sadar Bazar, Delhi appear.
4. The counsel for the defendant no.1 Kumar & Sons states that the defendant no.1 had unknowingly used a logo similar to that of the plaintiff and has immediately on service of summons of the suit discontinued the same and destroyed all the goods bearing the infringing logo and has no

objection to suffer a decree for permanent injunction in terms of prayer paragraph 25 (a) and (b) of the plaint and to give an undertaking to the Court that the defendant no.1 has destroyed all the infringing goods, advertising material, brochures bearing “MAXWELL & WILLIAMS” trademark as identified in paragraph 5 of the plaint.

5. The counsel for the defendant no.2 KS Hotelwares, Sadar Bazar, Delhi states that the defendant no.2 has never dealt in the goods of the defendant no.1 and/or has never dealt with the goods bearing the infringing trademark but the defendant no.2 also has no objection to suffering the decree as the defendant no.1 and to give an undertaking as given by the defendant no.1.

6. The counsel for the defendant no.1 Kumar & Sons on enquiry states that Kumar & Sons is a sole proprietary of Mr. Kanhaiya Goyal, aged 23 years, S/o Shri Pardeep Goyal, R/o 6/1360, Muteshwar Mandir Road, Saharanpur, Uttar Pradesh who is present in the Court. The counsel for the defendant no.1 further states that the defendant no.1 has also already taken steps for removal of the infringing logo from all online material.

7. The counsel for the defendant no.2 on enquiry informs that KS Hotelwares is a sole proprietary of Mr. Vijay Mittal.

8. The counsel for the plaintiff, after obtaining instructions, states that the plaintiff, in view of the defendants having agreed to suffer a decree and giving an undertaking as aforesaid, is not pressing for the other reliefs.

9. The undertaking of the respective counsels on behalf of their respective clients to the effect that they are not possessed of any infringing goods, advertising material, brochures bearing the “MAXWELL &

WILLIAMS” trademarks as defined in para 5 of the plaint and have already destroyed the same and will hereafter not use the same is accepted and their respective clients are ordered to be bound thereby and made aware of the consequences of breach of undertaking given to this Court.

10. A decree is passed in favour of the plaintiff and against the defendants in terms of prayer paragraph 25 (a) and (b) of the plaint, leaving the parties to bear their own costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

AUGUST 17, 2016

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