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

+ **CS (COMM) 1603/2016**

TATA SONS LIMITED

..... Plaintiff

Through : Mr Achuthan Sreekumar and Mr
Karan Kumar, Advocates.

versus

RAM NIWAS & ORS

..... Defendants

Through : None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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15.12.2016

VIBHU BAKHRU, J

1. The present suit has been filed by the plaintiff, *inter alia*, seeking a decree of permanent injunction restraining the defendants from directly or indirectly dealing in the business of providing transport; packaging and storage of goods; travel arrangement, packaging / moving services under the domain name www.tatapackers.com and/or using any trademark/description/name/device bearing the trademark TATA or any other mark which is deceptively similar to the plaintiff's trademark TATA. The plaintiff also prays for an order for rendition of accounts of profits earned by the defendants and a decree of ₹20,05,000/- towards damages against the defendants.

2. Although the defendants were served, however, they did not enter appearance and did not participate in the present proceedings. Accordingly, they were proceeded ex-parte on 04.03.2015. Mr. V. Gurumoorthi (PW1) has filed an affidavit affirming to depose on behalf of the plaintiff. Ex. PW

1/2 is the certified copy of the general power of attorney issued by the plaintiff, *inter alia*, authorizing PW 1 to take any steps that are necessary in furtherance of the final disposal of the present proceedings.

3. Briefly stated, the facts that emerge from the affidavit of PW1 are as follows:

3.1 The plaintiff, established in the year 1917, is the principal investment holding company of the TATA Group, which is stated to be India's oldest, largest and best-known conglomerate, with a turnover of over ₹325,334 crores (US\$70.8 billion) for the financial year 2008-09. The Plaintiff is stated to be India's oldest and largest private sector consisting of over 100 major operating companies, 28 of which are publicly traded, and employing over 3,63,000 people.

3.2 It is stated that the plaintiff has been continuously using the trademark and trade name TATA since its inception. The use of the trademark and name TATA by the plaintiff's predecessors in its business dates back to the year 1868. It is stated that the trademark and name TATA is stated to have since its adoption been extensively and continuously used by the plaintiff, by virtue of which the trademark TATA acquired an excellent reputation from the very beginning and down the decades, the said name has consistently been associated with, and exclusively denotes the conglomeration of companies forming the TATA Group.

3.3 The plaintiff claims to be the proprietor of the trademark TATA by virtue of priority in adoption, long, continuous and extensive use and advertising, and the reputation consequently accruing thereto in the course of trade. In addition, the plaintiff is also the registered proprietor of several

TATA-formative trademarks in relation to various goods across various classes of the Fourth Schedule of the Trade Marks Rules, 2002. The plaintiff also owns trademark registrations for the word TATA in over 50 countries besides India.

3.4 It is stated that the plaintiff, in the month of July-August 2011 received information that defendants are engaged in the business of providing transport; packaging and storage of goods; travel arrangement, packaging / moving services under the name and style TATA PACKERS AND MOVERS. It also has a sister concern by the name CJPS Logistics. Further, it was learnt that the defendants also operate via their website www.tatapackers.com. This led the plaintiff to appoint an independent investigator to ascertain whether the defendants are engaged in providing services/goods bearing the plaintiff's trademark TATA. The report of the investigator *inter alia* revealed that the defendants are using the domain name www.tatapackers.com to provide all kinds of packing and moving and related services (national and international) with their branch offices situated in various cities in India.

3.5 Further, investigation revealed that the entity by the name M/s Tata Packers and Movers was started by defendant no. 1 sometime during January, 2011. It was also revealed that defendant no. 1 had earlier used other trademarks such as FedEx etc. in relation to his business, however, the same was stopped following the lodging of complaint against him. The investigator also found defendant no. 4 introducing himself as the associate of TATA PACKERS AND MOVERS in Delhi.

4 PW1 has duly proved that plaintiff is the registered proprietor of the mark TATA in various classes by producing the printouts from the website

of the Trade Marks Registry as Mark C. PW1 has also duly proved that plaintiff is the registered proprietor of the mark TATA in Class 39 (Transport; Packaging and storage of goods; travel arrangement) by producing the printouts from the website of the Trade Marks Registry exhibited as EX-PW1/13.

5 It is evident that the mark TATA has been used by the plaintiff for a long period of time and enjoys reputation and goodwill and has acquired the status of a “*well-known*” mark.

6 Perusing the report of the independent investigator (Ex-PW1/15), it is clear that defendants are engaged in the business of transport, packaging and storage of goods, travel arrangements, etc and are using the name/trading style TATA PACKERS AND MOVERS, besides using the domain name www.tatapackers.com. It is evident that defendants have adopted the trade name TATA PACKERS AND MOVERS and the website www.tatapackers.com only to associate themselves with the *well known* mark of the plaintiff.

7 In view of the above, it is apparent that plaintiff is the registered proprietor of the mark TATA. Plaintiff is also the registered owner of the mark TATA under Class 39. It is also apparent that defendants are also carrying on their business in the same field as that of the plaintiff and are infringing the registered mark of the plaintiff, TATA by adopting a deceptively similar tradename TATA PACKERS AND MOVERS and website www.tatapackers.com.

8 The plaintiff has submitted a bill of costs for a sum of ₹1,77,783/- which includes legal fees, court fees and miscellaneous expenses. The same is reasonable.

9 In view of the above, the suit is decreed in terms of prayer (i) and (ii), that is, as under :

“(i) An order for permanent injunction restraining the Defendants, their partners or proprietors, as the case may be, their officers, servants and agents from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in the business of providing transport; packaging and storage of goods; travel arrangement, packaging / moving services under the domain name www.tataDackers.com and/or using any trade mark/description/name/device bearing the trademark TATA and/or any mark/s confusingly or deceptively similar to the Plaintiff's trademark TATA amounting to infringement of the registered trademark numbers 1247049, 1236894 as well as the other trade mark registrations mentioned in ANNEXURE A to the plaint owned by the Plaintiff Company and its sister concerns;

(ii) An order for permanent injunction restraining the Defendants, their partners or proprietors, as the case may be, their officers, servants and agents from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in the business of providing transport; packaging and storage of goods; travel arrangement, packaging / moving services under the domain name www.tatapackers.com and/or using any trade mark/description/name/device bearing the trademark TATA and/or any mark/s confusingly or deceptively similar to the Plaintiff's trademark TATA

amounting to passing off of the Defendants' services / goods as that of the Plaintiff's;"

10 Further, the defendants are directed to transfer the domain name www.tatapackers.com in favour of the plaintiff. In addition, the plaintiff is also entitled to costs of ₹1,77,783/-.

11 Decree sheet be drawn accordingly.

DECEMBER 15, 2016
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VIBHU BAKHRU, J

