

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION [L] NO. 574 OF 2017
IN
COMMERCIAL SUIT NO. 477 OF 2017

M/s. Metro Shoes Ltd.] Applicant

IN THE MATTER BETWEEN:

M/s. Metro Shoes Ltd. & Anr.] Plaintiffs

Vs.

Metro Store] Defendants

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Mr. Amit Jamsandekar i/b Piyush Shah, for the plaintiff.

CORAM: K.K. TATED, J.

DATED : 10th November, 2017.

P.C. :

Heard learned Counsel appearing for the applicant/plaintiff. Learned Counsel for applicant/plaintiff submits that as per the order dated 3rd October, 2017, they served the copy of Notice of Motion, Leave Petition and plaint on defendants. He submits that they received a letter dated 1st November, 2017 from defendant stating that they require three months time to take appropriate steps to change the name and style of his partnership firm as well as name on shop and goods.

2. Learned Counsel for the plaintiff submits that in view of this letter, this Hon'ble Court be pleased to grant interim relief in terms of prayer clauses(a)&(b) of Notice of Motion to be operated after the three months from the date of this order. Said letter be taken on record.

The said letter dated 1st November, 2017 is taken on record and marked 'X' for identification.

3. Considering the submission made by learned Counsel for the plaintiff and the letter written by the defendant dated 1st November, 2017, I am satisfied that the plaintiff has made out case for allowing this Notice of Motion in terms of prayer clauses (a) and (b). Hence, the following order.

: O R D E R :

[1] Notice of Motion is allowed in terms of prayer clauses (a) and (b) which read thus:

“a) That pending the hearing and final disposal of the present suit, the Defendants by themselves, their Partners, Servants, Agents, C & F Agents, Stockists, other Selling Agents and/or other persons claiming through or under them, be restrained by a Order and injunction of this Hon'ble Court from using, in any manner/form, directly or indirectly the impugned mark 'METRO' by itself or in combination with any suffix/prefix or any other similar/deceptively similar to the Plaintiffs registered trade marks bearing registration No. 284894, 661863, 474797, 1090659, 1090660, 1090334, 1251112, 1251113, 1251114, 1251115, 1251116, 1251117, 1251118 & 1251119 so as to infringe the same.

b) That pending the hearing and final disposal of the suit, the Defendant by themselves, their Partners, Agents, servants, CNF Agents, Stokiest, other selling Agents, and/or other persons claiming through or under them be restrain by Order and injunction by this Hon'ble Court from using in any manner/form, directly or indirectly the impugned mark “METRO” by itself or in combination with any suffix/prefix or any other similar/deceptively similar mark thereto, or similar/ deceptively similar to the Plaintiff's registered trade marks METRO, so as to pass off or enable others to pass off the goods of the Defendant as and for the goods of

the Plaintiff or as and for the goods of the Plaintiff or as being associated with or as emanating from or having any connection or association with the Plaintiffs;

- [2] Operation of this order is stayed for three months i.e up to 12th February, 2018 .
- [3] Plaintiff/applicant to serve copy of this order on defendants either by hand delivery or by registered post acknowledgment and file affidavit service to that effect.
- [4] Notice of Motion stands disposed of accordingly.

(K.K. TATED, J.)