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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 94/2016**  
**FOSHAN CITY SANJIAOZHOU ELECTRICAL TECHNOLOGIES**  
**CO. LTD & ANR** ..... Plaintiffs

Through: Mr. Chander Shekhar, Adv.

versus

**PRASHANTH KUMAR** ..... Defendant

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **11.12.2017**

1. The two plaintiffs namely (i) Foshan City Sanjiaozhou Electrical Technologies Co. Ltd. and (ii) Sanjeev Kumar Garg have sued the sole defendant Prashanth Kumar resident of Karnataka for permanent injunction restraining infringement of i) the trademark 'E-CHEN' in respect of identical/similar/allied and cognate goods; ii) trade dress/copyright; and, iii) passing off and for ancillary reliefs of delivery and recovery of damages.
2. The suit was entertained and vide *ex parte ad interim* order dated 10<sup>th</sup> February, 2016, while issuing summons of the suit and notice of the application for interim relief, the defendant was restrained from manufacturing and selling the counterfeit products i.e. the pumps used for water filter with the trademark 'E-CHEN' or any other similar or deceptive mark and Court Commissioners appointed to visit the premises of the defendant and to seize the infringing goods.
3. Summons/notice ordered to be issued to the defendant could not be served by ordinary process and the defendant was ordered to be served by

publication. Publication has been effected. None has appeared for the defendant.

4. The defendant is proceeded against *ex parte*.

5. The need to relegate the plaintiffs to lead *ex parte* evidence is not felt in view of the dicta in ***Satya Infrastructure Ltd. Vs. Satya Infra & Estates Pvt. Ltd.*** 2013 SCC OnLine Del. 508.

6. The plaintiffs have not alleged any violation of the interim order in force.

7. I have perused the pleadings and documents of the plaintiffs.

8. The plaintiffs, on the basis of pleadings and the documents have made out a case for grant of relief of permanent injunction claimed in para 33 (a),(b)&(c) of the plaint dated 3<sup>rd</sup> February, 2016.

9. The counsel for the plaintiffs on enquiry states that though the Court Commissioners were appointed to visit the two premises of the defendant but infringing goods were found from one premises only.

10. A perusal of the report of Shri Ajay Pal Singh Khullar, Advocate / Court Commissioner shows 20 pieces of finished products with the impugned stickers bearing the trademark 'E-CHEN' of the plaintiff and 160 pieces of finished and semi-finished products without the stickers having been found besides some raw material. No impugned stickers, to be used on other products, are reported to have been found.

11. In this view of the matter, I assess the plaintiffs to be entitled to nominal damages only in the sum of Rs.50,000/-.

12. A decree is accordingly passed in favour of the plaintiffs and against the defendant (i) of permanent injunction in terms of prayer paragraph 33

(a),(b)&(c) of the plaint; and, (ii) for recovery of Rs.50,000/- towards damages.

13. The plaintiffs shall also be entitled to costs of the suit; counsel's fee assessed at Rs.30,000/-.

Decree sheet be drawn up.

**RAJIV SAHAI ENDLAW, J**

**DECEMBER 11, 2017**

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