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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 233/2017 & IA.No.3911/2017(u/O 39 R-1&2 CPC),
IA.No.5287/2017 (u/O 1 Rule 10 CPC)

CL EDUCATE LTD. & ANR.

..... Plaintiffs

Through: Mr. Nishchal Anand and
Mr. Aman Tyagi, Advs.

Versus

CL EDUCATION SERVICES

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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11.05.2017

1. This order is in continuation of the earlier order dated 25th April, 2017.
2. None appears for the defendant today also.
3. The counsel for the plaintiffs however has filed IA.No.5287/2017 to implead Mr. Neeraj Handa, Mr. Arshdeep Singh and Mr. Ashish Sen, all described as proprietors/partners of the existing sole defendant CL Education Services, as defendants to the suit.
4. Once the plaintiff in the suit as originally filed has impleaded CL Education Services through proprietor/partner and it is further the case of the plaintiffs that the said existing defendant has been served

and the plaintiffs have filed an affidavit to this effect and it is yet further the case of the plaintiffs that the defendant has already complied with ex parte ad interim order dated 28th March, 2017, the filing of this application by the plaintiffs is not understandable and it appears that the plaintiffs merely want to keep this suit pending. Once this court is satisfied that the existing defendant has been served, the suit cannot be kept pending by making such application.

5. The counsel for the plaintiffs then states that the plaintiffs want to recover some damages from the defendant as prior to institution of the suit, notice was given to the defendant and with which the defendant has not complied.

6. Considering the purport of section 135 of the Trade Marks Act, 1999, no case for the plaintiffs to press for the relief of damages is made out.

7. Resultantly IA.No. 5287/2017 is dismissed.

8. The plaintiffs, on the basis of the averments made in the plaint and the documents filed therewith, have made out a case for grant of the relief of permanent injunction as claimed in para 48 (a), (b) and (c) of the plaint and for grant of mandatory injunction directing the defendant to transfer the domain name www.clweb.co.in in favour of the plaintiffs.

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

10. A decree is accordingly passed, in favour of the plaintiffs and against the defendant, (i) of permanent injunction in terms of prayer paragraphs 48 (a), (b) and (c) of the plaint; (ii) of mandatory injunction directing the defendant to within one month of communication of this order transfer to the plaintiffs the domain name www.clweb.co.in, at the cost and expenses if any of the plaintiffs; and, (iii) of mandatory injunction directing the Domain Name Registrar on which the said website is registered to, on the plaintiffs producing a copy of this order, transfer the said domain name in favour of the plaintiffs.

11. The plaintiffs shall also be entitled to costs of the suit from the defendant.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

MAY 11, 2017

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