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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) No.253/2017, IA No.4169/2017 (under Order XXXIX
Rules 1&2 CPC) .
GAP (ITM) INC. Plaintiff
Through: Mr. Prashant Gupta and Ms. Arzu
Chimni, Advs.

Versus

MOHD. ASIF Defendant
Through: Mr. Pankaj Kumar and Ch. Ved Pal
Singh, Advs. with defendant in person.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **28.04.2017**

1. The plaintiff as proprietor of the trademark 'GAP' has sued for injunction to restrain the defendant from infringing the trademark of the plaintiff and passing off his goods as that of the plaintiff by adopting the trademark 'GAPFIT' (for registration whereof also the defendant has applied though the defendant is shown to be using the trademarks, 'GAP FIT', 'GAP-FIT' and 'GAP DESIGNER') and for ancillary reliefs.
2. The plaintiff has also claimed the relief of mandatory injunction directing the defendant to withdraw its trademark application for 'GAPFIT'.
3. The suit was entertained and vide *ex parte ad interim* order dated 10th April, 2017 the defendant was restrained from using the marks 'GAPFIT', 'GAP FIT', 'GAP-FIT' and 'GAP DESIGNER' or any other mark deceptively or confusingly similar to the plaintiff's trademark 'GAP'.

4. A Court Commissioner was also appointed to visit the premises of the defendant and to seize the infringing goods.
5. The defendant is reported to be served and the counsel for the defendant alongwith the defendant in person appears and states that the defendant does not want to contest the suit and a decree for permanent injunction in terms of prayer paragraph 44 (ii) &(iii) and a decree for mandatory injunction in terms of prayer paragraph 44(iv) be passed.
6. The defendant has also offered to reimburse to the plaintiff the amount of Rs.1,00,500/- incurred by the plaintiff towards court fees.
7. The counsel for the plaintiff states that the Commissioner appointed has reported seizure of 3200 labels.
8. The defendant has offered to pay a consolidated sum of Rs.3 lacs to the plaintiff towards damages and to surrender of the infringing labels,
9. Accordingly, a decree is passed in favour of the plaintiff and against the defendant, (a) of permanent injunction in terms of the prayer paragraph 44 (ii) & (iii) of the plaint; (b) of mandatory injunction, in terms of prayer paragraph 44(iv) of the plaint; c) delivery of infringing labels/goods in terms of prayer paragraph 44(v) of the plaint; and, d) of recovery of Rs.3 lacs.
10. The representative of the plaintiff to visit the premises of the defendant on 1st May, 2017 when the seized goods would be destroyed in the presence of the representative of the plaintiff.

11. The defendant is granted time till 31st July, 2017 for payment of the sum of Rs.3 lacs failing which it shall incur interest at the rate of 12% per annum. The defendant shall be entitled to pay the amount in instalments.

Decree sheet be drawn up,

RAJIV SAHAI ENDLAW, J

APRIL 28, 2017
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 1308/2002 & IA.No.11187/2016 u/O XII, R-6) &
IA.No.5112/2017 (u/S 151 CPC)

MAHENDRA KUMAR GUPTA Plaintiff
Through: Mr. P.S. Bindra with Ms. Rishika Arora,
Mr. Asmita and Mr. Bhuvneshwar, Advs.

versus

DESH RAJ GUPTA AND ANR. Defendants
Through: Ms.Astha Gupta, proxy counsel for
Mr. Manish Vashisht, Adv. for D-1.
Mr. Rakesh Kumar, Adv for D-3.
Mr. Piyush Kaushik, Adv for D-4&5.
Mr. Aditya Sarin and Mr. Nishant Varun, Adv.
D-6.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **28.04.2017**

Subject to orders of Hon'ble the Judge In charge, list before
another Bench on 19th May, 2017 alongwith CS(OS) No. 1284/2002
stated to be listed on that date.

RAJIV SAHAI ENDLAW, J

APRIL 28, 2017
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