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

+ **CS(COMM) 917/2016**

TATA SONS LIMITED & ORS

..... Plaintiffs

Through: Mr. Pravin Anand, Mr. Achuthan
Sreekumar and Mr. Karan Kamra,
Advs.

Versus

GANESH & ORS

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

11.12.2017

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1. The three plaintiffs, namely (i) Tata Sons Limited; (ii) Tata Global Beverages Limited; and, (iii) NourishCo Beverages Ltd., instituted this suit against the four defendants namely (a) Ganesh; (b) Bhaskar Reddy; (c) M/s Ganesh Industries; and, (d) M/s Prasanna Sai Poly Film Industries, all situated at Hyderabad, for permanent injunction restraining infringement of registered trade marks, list whereof is given in paras 19 & 20 of the plaint and all with the word 'TATA', by advertising and selling packaged drinking water under the brand/name 'TAJA WATER PLUS' and from passing off their goods as that of the plaintiffs under the brand/mark 'TATA WATER PLUS' and for ancillary reliefs of delivery, rendition of accounts and damages.

2. The suit was entertained and vide *ex-parte* ad-interim order dated 25th July, 2016, while issuing summons of the suit and notice of the application, the defendants were restrained from manufacturing, selling, offering for sale, distributing and advertising packaged drinking water under the brand/name 'TAJA WATER PLUS' and Commissioner appointed to visit the premises of the defendants and to seize the infringing goods.
 3. The defendants could not be served by ordinary process and were ordered to be served by publication. A counsel appeared for the defendant No.4 on 26th May, 2017 but he has since stopped appearing. The defendants were proceeded against *ex-parte* on 28th August, 2017 and the plaintiffs relegated to lead *ex-parte* evidence.
 4. The plaintiffs have led their *ex-parte* evidence.
 5. The counsel for the plaintiffs has been heard.
 6. The plaintiffs, on the basis of *ex-parte* evidence, have made out a case for grant of permanent injunction in terms of prayer paragraph 61(i), (ii) & (iii) of the plaint dated 20th February, 2017.
 7. The counsel for the plaintiffs in support of the claim for damages has drawn attention to the report of the Commissioner appointed, who has found 1800 pieces of labels and 700 pieces of 100 ML pouches bearing the impugned trade mark.
 8. The counsel for the plaintiffs, on enquiry, states that each sells for Rs.2/- and the impugned activities of the defendants have come to the knowledge of the plaintiffs only two months prior to the institution of the suit. The counsel for the plaintiffs also contends that considering the nature of the case and considering the goodwill of the mark 'TATA' of the
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plaintiffs, the plaintiffs are entitled to exemplary damages. The counsel for the plaintiffs, on further enquiry, states that damages are due from defendants No.1 to 3 and of which the defendants No.1&2 Ganesh and Bhaskar Reddy are partners of defendant No.3 M/s Ganesh Industries. The counsel for the plaintiffs states that the defendant No.4 M/s Prasanna Sai Poly Film Industries being the printer of the impugned labels is also liable for damages.

9. Considering all the aforesaid facts and evidence, I find the plaintiffs to be entitled for the damages jointly and severally from the defendants, of Rs.2 lakhs. The plaintiffs shall also be entitled to the costs of the suit, including the fee paid to the Commissioner.

10. Accordingly, a decree is passed in favour of the plaintiffs and against the defendants jointly and severally (i) of permanent injunction in terms of prayer paragraph 61(i), (ii) & (iii) of the plaint dated 20th February, 2017; (ii) for recovery of damages in the sum of Rs.2 lakhs; and, (iii) for recovery of costs including of fee paid to the Commissioner. Counsel's fee assessed at Rs.1 lakh.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

DECEMBER 11, 2017

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