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

+ **CS(COMM) 950/2016**

M/S LABORATORIE GRANIER & CIE Plaintiff

Through: **Mr. Pankaj Kumar, Mr. Kapil Kumar
Giri, Mr. Vinay Shukla, Advocates**

versus

JITENDER JOHAR Defendant

Through: **None**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

22.11.2017

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1. This Suit was instituted for the reliefs of permanent injunction restraining the defendant Jitender Johar from infringing the trademark 'Garnier' of the plaintiff and from passing off his goods as those of the plaintiff and for ancillary reliefs.
2. The Suit was entertained and vide ex parte ad interim order dated 26th April, 2010, while issuing summons/notice of the Suit/application, the defendant was restrained from using the trademark 'Garnier'.
3. The counsel for the plaintiff states that the said interim order continues.
4. The defendant appeared through counsel and also filed a written statement but was proceeded ex parte on 3rd August, 2011.
5. The plaintiff has led ex parte evidence of PW1 Surbhi Bansal, constituted attorney of the plaintiff and of PW2 Nirmal Kumar, also constituted attorney of the plaintiff.

6. I have perused the records.
7. The counsel for the plaintiff states that in the criminal action initiated against the defendant for the same cause of action, huge recovery of infringing goods was made and since the plaintiff has also sought relief on the basis of passing off, the plaintiff, inspite of actual damage having not been proved, is entitled to nominal damages from the defendants.
8. On perusal of the evidence led, the plaintiff is found to have made out a case for grant of the relief sought of permanent injunction and for recovery of nominal damages in the sum of Rs.5 Lakhs and for recovery of costs of this Suit from the defendant. This being a commercial suit, counsel's fee assessed at Rs.50,000/-.
9. As far as the claim of the plaintiff for the relief of rendition of accounts is concerned, in view of the recovery already stated to have been made, the plaintiff is not found entitled thereto.
10. A decree is accordingly passed in favour of the plaintiff and against the defendant, of permanent injunction in terms of prayer paragraph 35(a) of the plaint dated 7th April, 2015 and for recovery of sum of Rs.5 Lakhs and costs.
11. Decree sheet be prepared accordingly.

No costs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 22, 2017

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