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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 1740/2015

EXXON MOBIL CORPORATION & ANR Plaintiffs
Through: Mr. Sumit Wadhwa, Advocate.

versus

V VENUGOPAL & ANR Defendants
Through: Mr. Gushan Chawla, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
15.11.2017

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Present suit has been filed for permanent injunction, infringement of trade mark and account of profits under the Trade Marks Act, 1999.

It is the plaintiffs' case that the defendants have been infringing and violating their mark EXXON.

On 05th April, 2016, this Court had passed the following order:-

“The defendant no.1 is present in Court in person. He undertakes that the name of defendant no.2 company shall be got changed by making appropriate application to the Registrar of Companies, so that defendant no.3 shall no longer use the word EXON, EXXON or any other similar name as the mark of the plaintiff.

Let the said application be made positively within the next one week. A copy of the application as made along with other documents shall be filed on record on an affidavit within two weeks with advance copy to the plaintiff. After the name has been changed, defendant no.2 shall also get the necessary changes

carried out before all other authorities including The Protector of Immigrants without any delay. Steps taken in that regard shall also be placed on record on an affidavit as and when they are taken.

The defendants shall also communicate to their Singapore associate to discontinue displaying on the website defendant no.2 as Exon Consultants forthwith. The communication sent by the defendants shall also be placed on record along with the affidavit.

Counsel for the plaintiff states that if the defendant changes its corporate name in the aforesaid manner, the plaintiff would be willing to restrict the relief in the suit to a mere injunction and would give up the claim for damages.

List on 19.05.2016.”

The defendants filed an affidavit of compliance on 16th May, 2016 which was re-filed on 24th May, 2016.

On 19th May, 2016, this Court had passed the following order:-

“Learned counsel for the defendant states that the affidavit has been filed in terms of the order dated 05.04.2016. However, the same is lying under office objections. Let the same be re-filed after removing the objections. Copy has been served on counsel for the plaintiff.

Learned counsel for the plaintiff submits that the defendant should supply the copy of the certificate incorporating the change of name; the certificate issued by the Protector of Immigrants incorporating the new name of the defendant, and; the defendant may also transfer the domain name Exongroup.org to the plaintiff, since the defendant is not entitled to use the same.

Learned counsel for the defendant states that the two documents aforesaid shall be supplied to the plaintiff, as and when they are made available from the concerned authorities. So far as the third aspect is concerned, he states that he wishes to take instructions.

List on 27.07.2016.”

Thereafter, on 11th August, 2017, this Court had passed the following order:-

“Learned counsel for the parties state that the matter has been amicably resolved.

Learned counsel for the defendants states that the Protector General of Emigrants has already changed the name of defendant no.2’s company to ‘M/s Chan Consultants Private Limited’. He also states that as M/s Chan Consultants Private Limited has already been incorporated, the name of defendant no.2 shall be removed from the register of the companies within a period of four weeks.

The statement made by learned counsel for the defendants is accepted by this Court and the defendants are held bound by the same. Let an affidavit to the said effect be filed within a period of five weeks.

List on 11th October, 2017.”

Today, learned counsel for defendants has handed over another affidavit of compliance dated 13th November, 2017.

In the said affidavit, it has been stated that the Ministry of Corporate Affairs is in the process of striking off the impugned corporate name “Exon Consultants Private Limited”. The said affidavit is taken on record.

However, today learned counsel for plaintiffs states that the defendants previous corporate name is still appearing on indiamart.com, suleka.com, edial.in and jobxmail.com.

Learned counsel for defendants undertakes to remove the impugned/previous name of the defendants company from the aforesaid websites within a period of two weeks.

The statements/assurances/undertakings given by the learned counsel for defendants are accepted by this Court and defendants are held bound by the same.

The Ministry of Corporate Affairs is also directed to strike off the previous name of the defendants “Exon Consultants Private Limited” within a period of four weeks.

Keeping in view the aforesaid, the present suit is disposed of in terms of prayers ‘A’, ‘B’ and ‘C’ of the plaint. Registry is directed to prepare a decree sheet accordingly.

Order dasti.

MANMOHAN, J

NOVEMBER 15, 2017

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