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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 1565/2016, I.A. No.7910/2014 (under Order XXXIX Rules 1 & 2 of the Code) & 15060/2014 (under Order XXXIX Rule 4 of the Code)

E.I. DU PONT DE NEMOURS AND COMPANY & ANR

..... Plaintiffs

Through Ms. Kripa Pandit and Ms. Kangan
Roda, Advs.

versus

VINOD SINGAL

..... Defendant

Through Ms. Varuna Ahuja, Adv for D-3.
D-4 in person with his counsel Mr.
Gautam Paniwani, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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12.05.2017

Present suit has been filed by the plaintiff seeking injunction of trademark, infringement of copyright and damages. The plaintiff is a company incorporated under the laws of United States of America. Plaintiff No. 2 is a company incorporated under the Indian Companies Act and is a subsidiary of plaintiff No.1. The present suit relates to blatant mis-use by the defendants of the manufacturer and sell of insecticide under the registered mark of the plaintiff namely 'CORAGEN', 'FERTERRA' and 'DUPONT', all three registered as trademark of the plaintiff. The plaintiff is also a proprietor of well known marks 'CORAGEN', 'FERTERRA' and 'DUPONT'; the packaging of the plaintiff's brand 'CORAGEN' and 'FERTERRA' bearing a unique distinctive man devices which has been reflected in

the plaint. He is also the owner of the copyright which vests the artistic work 'FERTERRA' as also 'CORAGEN'. The defendants had been infringing upon the trademark as also the copyright of the plaintiff which are the exclusive intellectual properties of the plaintiff.

In the course of proceedings on 15.01.2015, because of the inter-se settlement arrived at between the plaintiff and defendants No. 4 to 8 and 10 to 18, their names had been deleted from the array of parties. Fresh amended memo of parties is now on record. The contesting defendants today before this Court are defendants No. 1, 2 3 & 9. Defendant No.1 is reported to have died. Defendant No.2 is his son. The death certificate of defendant No.1 has not yet been brought on record. Learned counsel for the plaintiff submits that since defendant No.1's legal representative i.e. defendant No.2 is already on record, she does not wish separate proceedings against defendant No.1; proceedings against defendant No.1 stand abated.

Defendant No.2 is present in person. Learned counsel for defendant No.2 under instructions states that the said defendant will not in present and neither will he in future infringe the trademark of the plaintiff or interfere with the copyright of the plaintiff in the said marks i.e. 'CORAGEN', 'FERTERRA' and 'DUPONT' which are intellectual property rights of the plaintiff. This statement of defendant No.2 is taken on record. He shall honour this undertaking which he has furnished to this Court.

The affidavit of defendant No.3 is on record. Learned counsel appearing for defendant No.3 under instructions submits that this affidavit of defendant No.3 enunciates that the said defendant will not

sell the products of the plaintiff without any due authorization and will not sell any counterfeit goods of the plaintiff in future. This statement of defendant No.3 which is on his affidavit is also taken on record.

This Court notes that defendant No. 9 has not been appearing in the Court since 12.11.2014 although he has been served. Written statement has also not been filed. He is proceeded ex-parte.

The suit of the plaintiff is accordingly decreed in terms of the undertaking of defendants No. 1 & 2; it is decreed in terms of prayers A (i), (ii) & (iii) in favour of the plaintiff against defendants No.2, 3 & 9.

Learned counsel for the plaintiff additionally submits that the counterfeit goods which had been recovered from the premises of defendants No. 2 , 3 & 9 (pursuant to the Local Commission which has been executed in terms of the directions of this Court dated 29.04.2014) be directed to be destroyed by the plaintiff/its representatives. This permission is granted in favour of the plaintiff.

Suit disposed of in the above terms.

INDERMEET KAUR, J

MAY 12, 2017

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