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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 112/2018

LG CORP & ORS

..... Plaintiff

Through: Mr. Hemant Singh, Advocate

versus

RAJESH GUPTA & ORS.Defendants

Through: Mr. Dhavish Chitkara, Advocate
with Mr. Shobhit K. Srivastava,
Advocate for defendant No.4.
Mr. Divye Sharma, Advocate for
defendant No.5.

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Date of Decision: 08th February, 2018

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

I.A.1892-93/2018

1. Present joint applications have been filed under Order 23 Rule 3 read with Section 151 CPC. The same are duly signed by learned counsel for the plaintiffs and defendant nos. 4 and 5 as well as by the said parties.

2. Present applications are also supported by affidavits of authorized representative of the plaintiffs and the defendant nos. 4 and 5.

3. The learned counsel for the said parties state that the matter has been compromised in accordance with the terms mentioned in I.A.1892-93/2018.

4. The learned counsel further assure and undertake to this Court that the said parties shall comply with the Settlement terms mentioned in I.A.1892-93/2018. The aforesaid statements, assurances and undertakings as well as undertakings given by learned counsel for the parties are accepted by this Court and the said parties are held bound by the same.

5. This Court has also perused the compromise application and Settlement Agreement and is of the opinion that they are lawful.

6. Consequently, the suit is decreed qua defendant nos. 4 and 5, in accordance with applications bearing nos. I.A.1892-93/2018, which are marked as Ex. C-1(Colly). Registry is directed to prepare a decree sheet accordingly. Accordingly, present applications stand disposed of.

CS(COMM) 112/2018 & I.As. 11692/2015, 11693/2015, 12526/2015, 13341/2015, 18141-18142/2015

7. Vide order dated 09th November, 2016, defendant nos.1 to 3 were proceeded ex parte.

8. At this stage, learned counsel for the plaintiffs gives up prayers (d), (e) and (f) of the prayer clause to the suit. He further states that in view of the judgment of this Court in *Satya Infrastructure Ltd. & Ors. Vs. Satya Infra & Estates Pvt. Ltd.*, 2013 SCC OnLine Del 508, the present suit be decreed qua the relief of injunction. The relevant

portion of the said judgment relied upon by learned counsel for the plaintiffs is reproduced hereinbelow:-

“I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in-chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”

9. The relevant facts of the present case are that the plaintiff no. 1 is the registered proprietor of trademark LG for electronic business and goods used by all plaintiffs' group companies worldwide. The said mark is registered in favour of plaintiff no.1 in over 180 countries in the world in various classes. The trademark LG was coined as the new Group/corporate name by the plaintiff No. 1 from the initials of its erstwhile corporate names/group names, i.e. “LUCKY” & “GOLDSTAR”.

10. It is stated in the plaint that for promoting its brand, plaintiffs have created a distinctive logo. The logo represents world, future, humanity and creative thinking. The said LG logo is stated to be an original artistic work and plaintiff no.1 is the proprietor of its copyright. It is stated that the plaintiff no. 3 is stated to have

extensively advertised their goods bearing the trademark LG and LG logo in print and visual media in India.

11. It is averred in the plaint that the plaintiffs and/or its associate group of companies are stated to be engaged in the business of manufacturing and marketing of various goods including television sets, home appliances, projectors and various other electronic digital appliances.

12. The subject matter of the present suit is the LG Bluetooth Stereo Headset HBS-730, allegedly a stylish Bluetooth headset having an ergonomic curve design providing wireless control. Learned counsel for the plaintiffs state that the headset has become an instant hit and has become popular amongst the masses and the said model is being sold by plaintiff no. 3 in India at an MRP of Rs. 5,499/-.

13. Learned counsel for the plaintiffs states that in the third week of April, 2015, plaintiff no. 3 came to know that defendants nos. 1, 2 and 3 were selling counterfeit LG Bluetooth Stereo Headset, not limited to HBS-730, through e-commerce websites defendants nos. 4 and 5 in the price range between Rs.600/- and Rs. 1,700/-, whereas the original is sold for more than Rs. 5,000.

14. Learned counsel for the plaintiffs' states that consumers will not be able to distinguish between the originals and the counterfeits as the distinction between them is extremely minute and that consumers are bound to be confused and deceived. Learned counsel for the plaintiffs states that the products being sold by the defendants are sub-standard products and are dangerous for consumers.

15. Order XIII-A of the Act, 2015 empowers this Court to pass a summary judgment, without recording evidence, if it appears that the defendant has no real prospect of defending the claim.

16. In the opinion of this Court, the defendant nos.1, 2 and 3 have no real prospect of defending the claim as they have neither entered appearance nor filed their written statement or denied the documents of the plaintiffs.

17. In view of the above, the suit is decreed in favour of the plaintiffs and against defendant nos.1, 2 and 3 in terms of prayer clause (a), (b) and (c) of the plaint along with the actual costs. The costs shall amongst others include the lawyers' fees as well as the amounts spent on purchasing the court fees. The plaintiff is given liberty to file on record the exact cost incurred by it in adjudication of the present suit, if not already filed. Registry is directed to prepare a decree sheet accordingly. Consequently, the present suit and applications stand disposed of.

FEBRUARY 08, 2018

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MANMOHAN, J