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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 174/2017 & IA No.2785/2017 (u/O XXXIX R-1&2
CPC)

KULDIP SINGH KALRA Plaintiff

Through: Mr. Amit Jain, Adv.

Versus

BALSAM PUBLISHING HOUSE & ANR. Defendants

Through: Mr. Prabhat Kumar Rai & Mr. Vivek
Vishwakarma, Advs. for D-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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02.05.2018

1. The plaintiff, claiming to be publisher of books, periodicals, test assignment and worksheets under the mark 'bbc Compacta (Super Test Assignments and Worksheets)' for Classes III to VIII has instituted this suit to restrain the defendant no.1 from publishing books under the name / mark 'BALSAM' by infringing the copyright of the plaintiff. The defendant no.2 Sam Printers is stated to be the printer of the defendant no.1.
2. The suit was entertained and summons thereof ordered to be issued though no *ex parte* order sought or interim relief granted till now.
3. Today, the counsel for the defendant no.1 states that the defendant no.1 could not file written statement within the prescribed time. It is otherwise stated that the defendant no.1 has already taken a decision not to go ahead with the publication of the books to which objection was taken by the plaintiff. It is however further contended that the defendant no.1 does not admit the copyright claimed by the plaintiff and it is the statement of the

defendant no.1 that the contents of the publications of the plaintiff are in public domain. The counsel for the defendant no.1 thus states that the defendant no.1 has no objection to suffer a decree for permanent injunction as sought by the plaintiff.

4. None appears for the defendant no.2.

5. The counsel for the plaintiff states that the defendant no.2 could not be served and the plaintiff is in the process of finding the fresh address of the defendant no.2.

6. I may however record that the order dated 9th February, 2018 records the presence of Mr. Madan Gera, Advocate for the defendant no.2.

7. However, since the defendant no.2 is stated to be only the printer of the defendant no.1, once a decree for permanent injunction is passed against the defendant no.1, need for the plaintiff to seek any relief against the defendant no.2 would not remain.

8. As far as the claim for the plaintiff for damages is concerned, the counsel for the plaintiff informs that the defendant no.1 had only floated sample books in the market and had not sold any books infringing the copyright of the plaintiff and the plaintiff is thus not seeking any damages.

9. Accordingly, a decree is passed in favour of the plaintiff and against the defendant no.1, of permanent injunction in terms of prayer paragraphs 37(a) and (b) of the plaint dated 8th February, 2017, leaving the parties to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

MAY 02, 2018/‘gsr’..

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