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

+ **CS(COMM) 679/2018 & IA No.2560/2011 (u/O XXXIX R-1&2 CPC)**

AGARWAL PACKERS AND MOVERS

PVT LTD & ANR Plaintiffs

Through: Ms. Nancy Roy, Adv.

Versus

SUMIT AGGARWAL & ORS

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **23.03.2018**

1. This order is in continuation of the order dated 16th March, 2018.
2. Today also none appears for the defendants.
3. The counsel for the plaintiffs draws attention to the orders dated 2nd November, 2010 and 29th January, 2018 and contends that the plaintiffs are now entitled to interim injunction restraining the defendant from using the word 'AGARWAL' in their corporate name AGGARWAL GOODS SHIFTING PVT. LTD., in terms of order dated 2nd November, 2010.
4. The defendants having chosen not to contest the suit, the plaintiffs are found to have become entitled to interim relief restraining the defendants from using the word 'AGARWAL' as part of its corporate or trading name.
5. IA No.2560/2011 of the plaintiffs under Order XXXIX Rules 1&2 of the CPC is thus disposed of by restraining the defendants, till the pendency of the suit, from using the word 'AGARWAL' as part of their existing

corporate and trade name AGGARWAL GOODS SHIFTING PVT. LTD.

6. The counsel for the plaintiffs, on enquiry states that the plaintiffs are agreeable to the proposal contained in para no.4 of the order dated 29th January, 2018.

7. It is thus clarified that the interim injunction aforesaid will not prevent the defendants from using the name / mark 'SUMIT AGGARWAL GOODS SHIFTING PVT. LTD.'

8. The need to relegate the plaintiffs to *ex parte* evidence, in so far as for the relief of permanent injunction claimed in the suit is not felt in terms of *Satya Infrastructure Ltd. Vs. Satya Infra & Estates Pvt. Ltd.* 2013 SCC OnLine Del 508. I have enquired from the counsel for the plaintiffs, whether the suit can be disposed of in above terms or the plaintiffs want to continue with recording of evidence to prove damages.

9. The counsel for the plaintiffs states that subject to permanent injunction in terms of aforesaid being granted today, the plaintiffs will not press for the other reliefs.

10. Accordingly, a decree is passed in favour of the plaintiffs and against the defendants, of permanent injunction in terms of paras 5 to 7 above and the registrants of domain names www.aggarwalmovers.com and www.aggarwalgoodsmovers.com, operation whereof was suspended vide order dated 2nd November, 2010, are also directed to immediately, upon receipt of communication from the counsel for the plaintiff, transfer the said domain names to the plaintiffs.

11. Decree sheet be drawn up.

12. The counsel for the plaintiffs to communicate today's order, without awaiting for the decree, to the defendants for compliance.

RAJIV SAHAI ENDLAW, J

MARCH 23, 2018

'gsr'..