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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 820/2018 & IA No.5619/2018 (u/O XXXIX R-1&2 CPC).

GULATI RESTAURANT & FOODS PVT. LTD. Plaintiff

Through: Mr. Sudeep Chatterjee, Ms.Drishti Chatterjee, Mr. Navjyot Singh and Ms. Aishwarya Chaturvedi, Advs.

versus

GULATI'S/ GULATI'S TAKE AWAY AND BBQ Defendant

Through: Mr. Vishal Dabas, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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28.05.2018

1. This order is in continuation of the earlier order dated 25th April, 2018.
2. Summons / notice ordered to be issued to the defendant are reported to be served. The counsel for the plaintiff has also filed affidavit of service of the defendant.
3. Mr. Vishal Dabas, Advocate along with Mr. Amit Nasa stated to be partner of the defendant, appear.
4. Mr. Vishal Dabas, Advocate is permitted to hand over his *Vakalatnama* in the Court and which is taken on record.
5. Mr. Amit Nasa, on enquiry whether he is carrying any proof of identity, has handed over his Aadhaar Card to the Court Master who confirms that the same is of the person present. A photocopy of the Aadhaar Card has been taken and is kept on record and the original returned to Mr. Amit Nasa.

6. The counsel for the defendant states that the defendant, immediately on service of the order dated 25th April, 2018, has complied therewith and was using the impugned mark without knowledge of the plaintiff's rights therein and has no objection to suffering a decree for permanent injunction as claimed in para 60 (b) of the plaint.

7. The counsel for the plaintiff states that subject to the defendant compensating the costs of the suit, the plaintiff shall not press for the other reliefs.

8. The counsel for the defendant states that the use of the impugned mark by the defendant was unintentional and the defendant, under the said mark, carried on business for about one month only.

9. Considering the aforesaid, a decree is passed in favour of the plaintiff and against the defendant (i) of permanent injunction in terms of prayer paragraph 60 (b) of the plaint dated 23rd April, 2018; and, (ii) of recovery of costs of the suit, with counsel's fee assessed at Rs.1,00,000/-. However, subject to the defendant paying Rs.25,000/- to the counsel for the plaintiff on or before 8th June, 2018 against the receipt, the decree insofar as of costs shall stand satisfied.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

MAY 28, 2018

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