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

+ CS(COMM) 413/2016 & IAs No.5062/2016 (u/O XXXIX R-1&2 CPC) & 14191/2017 (u/S 151 CPC for modification of order dated 26<sup>th</sup> September, 2017)

SWAMY PUBLISHERS PVT LTD ..... Plaintiff

Through: Ms. Kritika Sahni, Adv.

Versus

JAIN BOOK DEPOT & ORS ..... Defendants

Through: Mr. R.D. Sharma, Mr. Rajat Sharma,  
Mr. Chetan Sharma and Ms. Ruchika  
Sharma, Advs. for D-1.

Ms. Shashi Panwar and Mr. T.  
Kanniappan, Advs. For D-2 to 7 & 9.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **13.02.2018**

1. The plaintiff instituted this suit against as many as ten defendants, all retailers of books, for permanent injunction restraining the defendants from manufacturing, selling, offering for sale, stocking, advertising or otherwise dealing in any counterfeit handbooks amounting to infringement of plaintiff's literary copyright in the handbook namely 'Swamy's Handbook for Central Government Staff' and from infringing the trade mark No.1331969 in Class 16 of the plaintiff and for ancillary reliefs of delivery, damages etc.

2. The suit was entertained and while issuing summons/notice thereof, vide *ex-parte* ad-interim order dated 26<sup>th</sup> April, 2016, the defendants

restrained from selling, counterfeit publication of plaintiff's 'Swamy's Handbook for Central Government Staff' or any other publication which infringes the plaintiff's copyrights in its publication and commission issued to visit the premises of defendants No.1 to 8.

3. The interim order is continuing till now.

4. Written statements have been filed by defendant No.1, defendants No. 2&5, defendants No.3&6 and defendants No.4&7.

5. The counsel for defendant No.1, the counsel for defendants No.2 to 7 & 9 appear. None appears for defendants No.8 & 10.

6. However, the counsel for the plaintiff states that the defendants No.8 & 10 have also been appearing through counsels.

7. Though the suit is listed today in pursuance to the order dated 2<sup>nd</sup> February, 2018 of the Joint Registrar on IA No.14191/2017 of the plaintiff for modification of the order dated 26<sup>th</sup> September, 2017, but during the hearing of the said application, the counsels for all the appearing defendants state that the said defendants have never sold any counterfeit books of the plaintiff and in fact have been sourcing the books of the plaintiff sold by them from the plaintiff itself and have been paying therefor through banking channel and against proper invoices and the plaintiff, at the time of purchase of books from the said defendants and with respect to which a notarial certificate has been issued, has itself put the counterfeit books in the envelope stamped by the notary. It is further stated that the commission issued by this Court has given a clean chit to all the said defendants.

8. The counsels for the appearing defendants also state that subject to the plaintiff not pursuing the claim for other reliefs against the said defendants, the defendants, though contend that the plaintiff has had no cause of action against them, but do not want to indulge in any unnecessary litigation and are willing to make a statement before this Court and to undertake to this Court, to, in future also, not infringe the copyright of the plaintiff or retail of any counterfeit books of the plaintiff or the trade mark of the plaintiff.

9. The counsel for the plaintiff states that subject to the aforesaid statement of the defendants being taken on record and the defendants being ordered to be bound therewith and the undertakings of the defendants being accepted by this Court, the plaintiff does not press for other reliefs.

10. Accordingly, the statements / undertakings aforesaid of defendants No.1 to 7 & 9 i.e. Jain Book Depot, Aggarwal Law House, Amar Book Sellers, Commercial Book House, Delight Book Centre, D.K. Traders, Sahitya Mandir & Commercial House are taken on record and the defendants No.1 to 7 & 9 are ordered to be bound therewith and the undertakings of the defendants No.1 to 7 & 9 are accepted by this Court and the said defendants through counsel informed of consequences of breach of undertaking given to the Court.

11. The suit against the defendants No.1 to 7 & 9 is disposed of in terms of above.

12. As far as the non-appearing defendants No.8 & 10 are concerned, they are proceeded against *ex-parte*.

13. The plaintiff, on the basis of averments contained in the plaint and the documents filed therewith, has made out a case for grant of permanent injunction, as claimed against the defendants No.8 & 10. The need to relegate the plaintiff to *ex-parte* evidence against the defendants No.8 & 10 is not felt. Reference can be made to ***Satya Infrastructure Ltd. Vs. Satya Infra & Estates Pvt. Ltd.*** 2013 SCC OnLine Del 508

14. A decree is accordingly passed in favour of the plaintiff and against the defendant No.8 namely Sangam Book Depot and defendant No.10 namely Surjeet Book Depot(s) Regd. (Satnam Group), of perpetual injunction in terms of prayer paragraph 31(i), (ii) & (iii) of the plaint dated 25<sup>th</sup> April, 2016.

15. The parties are left to bear their own costs.

Decree sheet be drawn up.

A copy of this order be given *dasti*.

**RAJIV SAHAI ENDLAW, J.**

**FEBRUARY 13, 2018**

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