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

+ CS(COMM) 538/2016 & IA No. 6066/2016 (u/O XXXIX R-1 & 2 CPC)

AERO CLUB

..... Plaintiff

Through: Mr. Mandeep Singh Vinaik,
Ms. Anjali Sharma, Mr. Deepak
Bashta, Advs.

versus

STYLE OF METRO OVERSEAS AND OTHERS Defendant

Through: None

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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16.03.2018

1. The plaintiff has sued the three defendants, namely, (i) Style of Metro Overseas; (ii) Bobby Kureshi; and, (iii) Rahisuddin Kureshi, for permanent injunction restraining infringement of trademark WOODLAND and/or the TREE DEVICE and for ancillary reliefs of delivery, rendition of accounts and damages.

2. The suit was entertained and vide *ex parte* ad interim order dated 16th May, 2016, the defendants restrained in terms of prayer paragraph 21(i) to (iii) of IA No. 6066/2016 of the plaintiff under Order XXXIX Rules 1 and 2 of the CPC and Commissions issued to the premises of the defendants to seize the infringing goods. The interim order has continued till now.

3. The defendants appeared and filed a written statement and to which a replication was filed by the plaintiff. However, the counsel who was earlier appearing for the defendants stopped appearing before the Joint Registrar from the stage of admission/denial of documents. The learned Joint Registrar has accordingly posted the suit before the Court.

4. Today also, none appears for the defendants.

5. The defendants are proceeded against *ex parte*.

6. The plaintiff, on the basis of averments made in the plaint and the documents filed therewith is found to have made out a case for grant of permanent injunction as claimed.

7. Need to relegate the plaintiff to *ex parte* evidence is not felt (see ***Satya Infrastructure Ltd. Vs. Satya Infra & Estates Pvt. Ltd.*** 2013 SCC OnLine Del 508).

8. A perusal of the report of the Commissions issued shows goods bearing the infringing marks to have been found in one of the premises of the defendants, though the volume thereof is not reported. On the basis thereof, the damages due to the plaintiff are assessed at Rs. 2 lacs.

9. A decree is accordingly, passed in favour of the plaintiff and jointly and severally against the defendants (i) of permanent injunction in terms of prayer paragraphs 29(i), (ii) and (iii) of plaint dated 9th May, 2016; (ii) of recovery of Rs. 2 lacs as damages/compensation; and, (iii) of costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

MARCH 16, 2018

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