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

+ **CS(COMM) 1054/2016 & I.A.5330/2017**

M/S. HT MEDIA LIMITED Plaintiff
Through: Mr. Dhavish Chitkara, Advocate.

versus

MR. FAISAL MASOOD & ORS. Defendants
Through: None

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

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Date of Decision: 04th May, 2018

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present suit has been filed for permanent injunction restraining infringement of trade mark, copyright, passing off, unfair business practice, rendition of accounts, damages, etc.
2. By way of an ex parte ad interim injunction order dated 08th August, 2016, this Court had directed the defendants to maintain status quo as regards the registration of the domain name. The ex parte ad interim injunction was confirmed vide order dated 17th October, 2016 of this Court.
3. Since the defendant nos. 1, 2 and 3 have not entered appearance and vide orders dated 06th September, 2017 and 10th April, 2018, the

right of defendant no.3 and of defendant nos. 1 and 2 to file written statement was closed, they are therefore proceeded *ex parte*.

4. At this stage, learned counsel for the plaintiff gives up prayers 29(f) and (g) of the prayer clause to the suit. He prays that in view of the judgment of this Court in ***Satya Infrastructure Ltd. & Ors. Vs. Satya Infra & Estates Pvt. Ltd.***, 2013 SCC OnLine Del 508, the present suit be decreed qua the relief of injunction and costs. The portion of the said judgment relied upon by learned counsel for the plaintiff is reproduced hereinbelow:-

“I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in-chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”

5. The relevant facts of the present case are that The Hindustan Times Ltd. (‘HTL’) incorporated in 1924 transferred its media business in the year 2003 to the plaintiff, i.e. Hindustan Times Media Ltd. (‘HTML’). It is stated that the plaintiff is a media house engaged in the business of print media, radio and internet services and enjoys a leadership position in the English and Hindi newspaper market. It is stated that the intellectual property rights (‘IPRs’) including trademark rights and the

goodwill of HTL have been assigned to the Plaintiff which has now become the proprietor of all the IPRs including the trademark 'Hindustan Times'. It is stated that the Plaintiff is also proprietor of registered trademarks 'Hindustan Times' and logo 'HT' in classes 9, 16, 41 and 42 and of the marks www.hindustantimes.com, www.hindustantimes.in, www.hindustantimes.co.uk, Hindustan Times (Device), Hindustan Times Comics and www.hindustan.in under class 16 of the Trade Marks Act, 1999.

6. Learned counsel for the plaintiff states that defendants nos. 1 and 2 have been maintaining a domain name 'hindustantimes.in' located at the URL www.hindustantimes.in wherein the words Hindustan Times and logo are depicted with respect to an online news service. He states that these are identical to the plaintiff's trademark and logo 'Hindustan Times'. He further states that besides illegally and unauthorisedly using the above marks, defendant nos. 1 and 2 have also structurally and visually depicted the mark 'Hindustan Times' on their website in an artistic manner with the similar colour combination, get up, lay out, font etc.

7. Learned counsel for the plaintiff points out that the words 'Hindustan Times' in English and Hindi languages are depicted conspicuously in the logo used by defendant nos. 1 and 2 in the website in a manner identical to that depicted by the plaintiff. He states that a 'Facebook' account in respect of the impugned mark 'Hindustan Times' has allegedly also been created by defendant nos. 1 and 2.

8. Order XIII-A of the Act, 2015 empowers this Court to pass a summary judgment, without recording evidence, if it appears that the defendant has no real prospect of defending the claim.

9. In the opinion of this Court, the defendant has no real prospect of defending the claim as it has neither entered appearance nor filed its written statement or denied the documents of the plaintiff. Further, the plaintiff is the prior user of the mark, domain name and is the owner of the registered trademark, i.e. Hindustan Times and HT.

10. In view of the aforesaid, the suit is decreed in favour of the plaintiff and against the defendant in accordance with prayer Clause 29 (a), (b), (c), (d) and (e) of the plaint along with the actual costs. The costs shall amongst others include the lawyers' fees as well as the amounts spent on purchasing the court fees. The plaintiff is given liberty to place on record the exact cost incurred by it in adjudication of the present suit, if not already filed. Registry is directed to prepare a decree sheet accordingly. Consequently, the present suit and application stand disposed of.

MAY 04, 2018
rs/js

MANMOHAN, J