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

+ CS(COMM) 1663/2016 & IAs No.16002/2016 (u/O XXXIX R-1&2 CPC) & 2020/2017 (u/O XXXIX R-2A CPC)

**IMPRESARIO ENTERTAINMENT & HOSPITALITY
PVT. LTD.**

..... Plaintiff

Through: Ms. Shikha Sachdeva, Mr. Vivian Mathur and Ms. Mugdha Palsule, Advs.

Versus

**MOHAMMAD WAJAHAT ALI, PROPRIETOR
HYDERABAD SOCIAL**

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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26.10.2018

1. The plaintiff has instituted this suit, as per amended plaint verified on 16th February, 2018 on record, to restrain the sole defendant from (i) using the mark 'OFFLINE' and/or any other mark or name similar to the plaintiff's trade mark 'SOCIAL OFFLINE', as a trade mark, trade name or corporate name amounting to infringement of the trade mark of the plaintiff; (ii) passing off his restaurant services as an outlet of the plaintiff, by imitating the interior design of any of the plaintiff's design 'SOCIAL' outlets, including the raw brick walls and the hanging bare bulb concept as detailed in paragraphs 16 & 28 of the plaint; (iii) imitating the manner of serving the beverages and food items by the plaintiff in its 'SOCIAL' outlets

and thereby passing its goods and/or services as goods and services of the plaintiff; and, (iv) for delivery and accounts.

2. The counsel for the plaintiff states that in the amended plaint, mistakenly the mark being used by the defendant has been mentioned as 'OFFLINE' instead of 'SOCIAL'. It is further stated that owing to such mistake, suffix of 'OFFLINE' also appears with the mark 'SOCIAL' of the plaintiff. It is informed that the mark of the defendant in the prayer paragraph in the plaint as originally filed has been correctly mentioned as 'SOCIAL'.

3. The counsel for the plaintiff is permitted to, in her hand and under her signatures, make the correction in prayer paragraphs A(i) and (ii) of the amended plaint on the Court file.

4. The suit came up first before this Court on 22nd December, 2016 when while, issuing summons/notice thereof, the defendant was restrained from using the trade mark 'SOCIAL' or any other trade mark deceptively similar to the said trade mark in respect of its businesses and from advertising, marketing its business under the trade mark 'HYDERABAD SOCIAL'.

5. The defendant appeared before this Court in response to the summons issued. On 13th November, 2017, the counsel for the plaintiff informed that though the defendant had approached the plaintiff for settlement but thereafter did not appear. The defendant also stopped appearing in this Court and vide order dated 13th November, 2017, the plaintiff was relegated to *ex-parte* evidence. The plaintiff thereafter applied for amendment of the plaint and which was allowed. The plaintiff has led its *ex-parte* evidence. The counsel for the plaintiff has been heard.

6. The counsel for the plaintiff has argued that (i) the plaintiff is carrying on business of providing cafes/restaurants under the name 'SOCIAL' in Delhi, Bombay, Bangalore, Gurgaon, Chandigarh and Pune and adds the name of the location to the word 'SOCIAL'; list of 'Hauz Khas Social', 'Def. Col. Social', 'Todi Mill Social', 'Social Chruch Street', 'Khar Social', 'Palladium Social', 'Colaba Social', 'Whitefield Social', 'Odeon Social', 'Nehru Place Social', 'Koramangala Social', 'Cyber Hub Social' and 'Sector-7 Social' etc. is furnished in the plaint; and, (ii) the defendant set up a café/restaurant of similar design as the plaintiff at Hyderabad with the name 'Hyderabad Social'. Hence this suit.

7. On enquiry, whether the defendant has abided by the interim order in this suit which continues till now, the counsel for the plaintiff replies in the affirmative.

8. The counsel for the plaintiff does not press for reliefs A(iii) to (iv) and B.

9. The plaintiff, on the basis of unrebutted plaint and evidence has made out a case for grant of permanent injunction.

10. Accordingly, a decree is passed in favour of the plaintiff and against the defendant in terms of prayer paragraph A(i) & (ii) of the plaint.

11. The counsel for the plaintiff states that the defendant, though had applied for registration of the trade mark 'HYDERABAD SOCIAL', but the plaintiff is opposing the said registration and the said proceedings are still pending.

12. In view of the same, the need for grant of relief claimed in prayer paragraph B(iv) directing the defendant to withdraw its application for registration, is not felt and the said aspect shall be determined by the Registrar of Trade Marks.

13. The defendant having not contested the suit, no costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

OCTOBER 26, 2018

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