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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 1187/2018 & I.As. 14391-14396/2018

SONY CORPORATION

..... Plaintiff

Through:

Ms. Anradha Salhotra,
Advocate with Mr. Sumit
Wadhwa, Ms. Mallika
Ahluwalia and Ms. Animika
Majumdar, Advocates.

versus

MR. SURESH KAOUROMAL
GAMBANI AND ANR.

..... Defendants

Through:

Mr. Mohan Vidhani, Advocate
with Mr. Rahul Vidhani,
Mr. Ashish Singh and
Ms. Elisha Kumari, Advocates
with defendant No.1 in person.

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Date of Decision: 22nd October, 2018

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

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, passing off, accounts of profits under the Trade Marks Act, 1999.

2. It is averred in the plaint that the plaintiff is the registered proprietor of trade mark SONY in around 193 jurisdictions in the

world including in India where the said mark is registered in various Classes under the Trade Marks Act, 1999.

3. It is further averred in the plaint that the trade mark/name SONY of the plaintiff has been recognized as a well known mark by the Courts of law in various decisions such as ***Kamal Trading Co. Vs. Gillette U.K. Ltd., 1988 (8) PTC-1 (Bom), Sony Corporation Vs. Jasbir Singh Kohli & Ors. (2005) IPAB 13*** etc.

4. It is alleged in the plaint that the defendant No.1 is the proprietor of M/s. Ashish Garments and the defendant No.2 is the brother of defendant No.1. Learned counsel for plaintiff states that the defendants are selling ladies undergarments under the trade mark SONY allegedly since 1982.

5. On the last date of hearing, when the present suit was taken up for consideration, this Court was surprised to note that the defendants' mark had proceeded to registration without the plaintiff's opposition to the mark being decided. Consequently, this Court was inclined to grant an ad interim injunction order.

6. Today, learned counsel for defendants, on instructions of defendant No.1-Mr. Suresh Kaouromal Gambani, who is personally present in Court, states that the defendants have no objection if the present suit is decreed in accordance with para 40(a) and (c) of the plaint.

7. He further states that the defendants shall in future sell their goods under the registered trade marks GUDDI (Registration No. 2742352) and LA FAME (Registration No. 2429064).

8. He, however, prays that the defendants be allowed to exhaust their stock within a period of nine months i.e. 31st July, 2019.

9. Keeping in view the aforesaid statements, learned counsel for plaintiff does not wish to press for any other or further relief.

10. The statements/undertakings given by the learned counsel for defendants are accepted by this court and defendants are held bound by the same.

11. Consequently, present suit is decreed in accordance with para 40(a) and (c) of the plaint which are reproduced hereinbelow:-

“(a) The Defendants, their officers, partner, employees, servants, agents, representatives, dealers, successors in title, sister concern(s), associates, subsidiary(ies), franchisee(s), licensees, or any other person claiming through or under the Defendants jointly and/or severally or otherwise whatsoever, be restrained by a permanent injunction of this Hon’ble Court from using the mark SONY and/or any other trade mark identical/deceptively similar to the Plaintiff’s mark SONY as a trade mark/ part of a trade mark, domain name/part of the domain name; business name or part of a business address and/or in any other manner whatsoever, which would amount to infringement of the registered trade mark of the Plaintiff and/or passing off the services as and for the services of the Plaintiff or in any manner whatsoever;

(c) The Defendants be ordered to voluntarily withdraw trademark application No. 618737 in class 25 and

voluntarily cancel the registration No. 451318 in class 25 and to reveal any other trademark either registered or pending registration consisting of the word SONY as a part thereof.”

12. The defendants are directed to voluntarily withdraw their trade mark Application No.618737 in Class 25 as well as voluntarily cancel their Registration No.451318 in Class 25 and withdraw/cancel any other trademark either registered or pending registration consisting of the word SONY as a part thereof within a period of four weeks. The defendants shall also change their business/trade address bearing the plaintiff's mark, that means, SONY House to any other name that is not deceptively similar to the plaintiff's mark SONY.

13. The defendants shall place on record an affidavit within a period of three weeks disclosing the stock in hand bearing the mark SONY and /or any other mark which is deceptively similar to the mark SONY. The defendants are directed to dispose of their stock in hand within a period of nine months i.e. till 31st July, 2019.

14. Accordingly, present suit and pending applications stand disposed of. Registry is directed to prepare a decree sheet accordingly.

MANMOHAN, J

OCTOBER 22, 2018

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