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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CS(COMM) 583/2017****TATA SONS LIMITED**

..... Plaintiff

Through

Mr.Pravin Anand and Mr.Achuthan
Sreekumar, Advs.

versus

MR. JAYARAM AYAA

..... Defendant

Through

CORAM:**HON'BLE MR. JUSTICE JAYANT NATH****ORDER**

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11.07.2018**IA No. 8836/2018**

1. This application is filed under Order 8 Rule 10 read with Order 13A Rule 3 and 6(1)(a) CPC seeking a summary judgment against the defendant in terms of para 55 of the plaint.
2. A perusal of the order of this court dated 07.11.2017 would show that the Joint Registrar had recorded the appearance of the defendant and also the submission of the learned counsel for the defendant that he was served on 03.10.2017. The parties had also gone for mediation but it appears that there has been no settlement. On 08.03.2018, this court had noted that the time for filing the written statement had expired and the right of the defendant to file the written statement was closed. Thereafter, on the next date of hearing, namely, 08.05.2018 before the Joint Registrar, none appeared for the defendant.

3. The present suit is filed by the plaintiff seeking an order of permanent injunction to restrain the defendant and its officers, servants, etc. from offering for sale, supplying, advertising, directly or indirectly dealing in any business whatsoever under the name 'TATA SEEDS' or any trade mark/description, etc. bearing the trade mark 'TATA'/'TATA SEEDS'. Other connected reliefs are also sought.

4. It is stated that the plaintiff is the promoter and principal investment holding company of the House of TATA, the oldest business conglomerate in the country. It is pleaded that the trade name/trade mark TATA is derived from the surname of the plaintiff's founder. The plaintiff for its own business activities and those of its group companies has continuously and consistently been using the said trade mark/trade name since its inception i.e. 1917. The House of TATA consists of over 100 companies which use the name/trade mark 'TATA' as a key essential part of their corporate name. Hence, it is pleaded that the plaintiff is the proprietor of the trade mark 'TATA' by virtue of priority in adoption, long, continuous and extensive use, etc. It is also a registered trade mark.

5. The details of the registration of the trade mark are given in para 13 of the plaint. It is also pleaded that the said trade mark enjoys an unparalleled reputation and also enjoys the status of a well known trade mark. It is also pleaded that TATA also deal with other agricultural products.

6. It is pleaded that in July 2017, the plaintiff learnt that the defendant was engaged in illegal and infringing activities using the well known trade mark 'TATA'. Investigations revealed that the defendant was engaged in the business of manufacturing, processing and supplying paddy products under the trade name/trade mark 'TATA SEEDS'. Details regarding other illegal

activities of the defendant have also been stated.

7. The defendant has failed to file its written statement. In my opinion, it is a fit case to pass a decree against the defendant under Order 8 Rule 10 CPC.

8. Even otherwise, in my opinion, the defendant has no real prospect of successfully defending the claim and I see no reason to prolong the matter by sending the parties to trial. Accordingly, the present application is allowed.

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9. In view of the above, a decree is passed in favour of the plaintiff and against the defendant in terms of para 55 (i), (ii) and (iii) of the plaint. The plaintiff shall be entitled to, on account of damages, a sum of Rs.5 lakhs. A decree is passed in favour of the plaintiff and against the defendant for the said sum of RS. 5 lakhs. The plaintiff shall also be entitled to actual costs which are quantified by the plaintiff in the aforementioned application at Rs.1,65,000/-+ Rs.2,92,770/- = Rs.4,57,770/-

10. The suit stands disposed of. All pending applications, if any, also stands disposed of.


JAYANT NATH, J

JULY 11, 2018/rb
corrected and released on 14.09.2018