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

+ **CS(COMM) 590/2017 & I.A.A 10240/2017**

**INDIABULLS HOUSING
FINANCE LTD. & ANR.**

..... Plaintiff

Through: Ms. Bitika Sharma with
Ms. Isha Tyagi, Advocates

versus

WWW.INDIABULLS.ORG & ORS.Defendants

Through: Dr. Maurya Vijay Chandra,
Advocate for D-3

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Date of Decision: 01st February, 2018

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. As defendant nos. 1 and 2 do not appear despite service, they are proceeded ex-parte.
2. Vide order dated 22nd January, 2018, the suit was decreed against defendant no.3.
3. At this stage, learned counsel for the plaintiffs gives up prayers (b), (c), (d) and (e) of the prayer clause to the suit. She further states 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. The

relevant portion of the said judgment relied upon by learned counsel for the plaintiffs 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.”

4. The relevant facts of the present case are that the plaintiffs are the original inventors, registered proprietors and prior users of the trade mark “INDIABULLS” and its derivatives/variants for its well-known and reputed financial, banking, stocks, mutual funds, housing and other affiliated services.

5. It is averred that the plaintiff no.1 adopted the trademark INDIABULLS in January 2000 as a part of its corporate name as well as its wide range of goods and services and has been using the same continuously and extensively. It is further averred that the plaintiff no.2 owns the registration of the trademark INDIABULLS in class 9 since the year 2004 for the software and other application programmes, which is valid and subsisting.

6. It is stated that the plaintiffs have also chosen to make their services available online through its website having the domain name www.indiabulls.com.

7. Learned counsel for the plaintiffs' state that the defendants are unauthorisedly and illegally adopting and using the plaintiffs' registered trade mark INDIABULLS and using the domain name www.indiabulls.org. She states that the defendant no.1 is engaged in providing financial services by way of giving transactional and advisory assistance to consumers on the impugned website, i.e. www.indibulls.org, and the defendant no.2 is the registrant of the said impugned domain name.

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 nos.1 and 2 have no real prospect of defending the claim as they have neither entered appearance nor filed their written statement or denied the documents of the plaintiffs. Further, the plaintiffs are the prior users of the mark, domain name and are the owners of the registered trademark, i.e. INDIABULLS.

10. In view of the above, the suit is decreed in favour of the plaintiffs and against defendant nos.1 and 2 in terms of prayer clause (a) 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 file 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.

MANMOHAN, J

FEBRUARY 01, 2018

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