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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 861/2017 & IA No.15178/2017 (u/O XXXIX R-1&2
CPC)

GRANADA SERVICES PRIVATE LIMITED Plaintiff

Through: Mr. Manish Biala, Adv.

Versus

ANKIT RAJ & ANR Defendants

Through: Ms. Umama Zehra, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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12.02.2018

1. This order is in continuation of the earlier orders dated 18th December & 20th December, 2017.

2. Today, Ms. Umama Zehra, Advocate appears for defendant No.1 and states that she has been engaged two days back and has not even studied the file and seeks adjournment.

3. The defendant No.1 is informed to have been served on 18th December, 2017 and appeared before this Court on 20th December, 2017. Thirty days prescribed by law for filing the written statement have already lapsed. Neither has any written statement been filed nor has any application for extension of time for filing written statement been filed. It has been held in (i) *Gulf DTH FZ LLC Vs. DishTV India Limited* 2016 SCC OnLine Del 5005; (ii) *Kailash Vs. Nanhku* (2005) 4 SCC 480; (iii) *R.N. Jadi & Brothers Vs. Subhash Chandra* (2007) 6 SCC 420; (iv) *Mohammad Yusuf Vs. Faij Mohammad* (2009) 3 SCC 513; and, (v) *Subodh Singh Vs. Vijay Mahajan* 2017 SCC OnLine Del 10692 that the maximum period of 120

days provided in the Code of Civil Procedure, 1908 (CPC) is not as of matter of right and is not to be granted and only when extension is sought by setting up proper reasons is extension to be granted. Nothing of the sort has been shown by the defendant No.1.

4. Ms. Umama Zehra, Advocate appearing for the defendant No.1 agrees that the period of thirty days prescribed is not to commence from the date of her being engaged.

5. Once that is so, in the absence of any written statement and application for extension, the right of defendant No.1 to file written statement is closed.

6. The only other defendant namely the defendant No.2 has already been proceeded against *ex-parte* on 20th December, 2017.

7. I have considered, whether to relegate the plaintiff to evidence qua the reliefs claimed of permanent injunction or the plaintiff is entitled to the said reliefs forthwith under Order VIII Rule 10 of the CPC.

8. The claim of the plaintiff in the present suit against the defendant No.1 who was an ex-employee of the plaintiff is for permanent injunction restraining defendant no.1 from releasing the book titled “REVEALED” authored by the defendant No.1 and which is alleged to infringe the registered trade mark of the plaintiff and defame and disparage the plaintiff.

9. Ms. Umama Zehra, Advocate, inspite of again given an opportunity to say whatever she has to say, states that she has nothing to say.

10. The defendant No.1, present in person, on being asked, states (i) that he has authored his autobiography and in which necessarily the time of his employment with the plaintiff is also covered; and, (ii) that the plaintiff has

filed the present suit without reading the book.

11. I have asked the defendant No.1, present in person, to show/hand over the manuscript of the book.

12. The defendant No.1 states that he has not printed the book and has stopped the printing of the book and has no intention to print the book.

13. The defendant No.1, on further asking, whether he has any objection to hand over the manuscript of the book to the plaintiff states that he has no objection thereto.

14. In this view of the matter, a decree is passed in favour of the plaintiff and against the defendants (i) of permanent injunction in terms of prayer paragraph 45(a) to (c) of the plaint dated 15th December, 2017; (ii) of mandatory injunction directing the defendant No.1 to withdraw/take down the defamatory advertisements from www.facebook.com, www.youtube.com and www.amazon.com within ten days hereof; (iii) of mandatory injunction directing the defendant No.2 Evincepub Publishing to withdraw/take down/stop the sample of the book “REVEALED” authored by defendant No.1 from www.evincepub.com or any other media where it may have been put up; (iv) of mandatory injunction directing the defendant No.1 to within thirty days of today hand over to Mr. Manish Biala, Advocate for the plaintiff appearing today, the manuscript and other copies, if any of the book “REVEALED”.

15. The counsel for the plaintiff seeks minimal damages.

16. However, in the facts and circumstances, the plaintiff is not found entitled to any damages and is not found entitled to any other reliefs.

No costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 12, 2018

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