

\$~21

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

+ **CS(COMM) 863/2017 & IA No. 15184/2017 (u/O XXXIX R-1 & 2 CPC)**

BELMOND INTERFIN LTD.

..... Plaintiff

Through : Ms. Shwetasree Majumdar,
Mr. Prithvi Singh, Ms. Pritika Kohli,
Advs.

versus

RITESH RANA & ANR

..... Defendants

Through : Mr. Neeraj Yadav, Adv. along with
Mr. Rakesh Saini, Director of D-2
and Attorney of D-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **06.03.2018**

1. This order is in continuation of the earlier order dated 27th February, 2018.
2. The counsel for the defendants states that the defendants are willing to suffer a decree of permanent injunction in terms of prayer paragraph 32(a) and (b) to transfer the domain name www.belmondpark.in to the plaintiff in terms of prayer paragraph 32(c), of the plaint dated 16th December, 2017 but the injunction may be ordered to come into force after six months from today which time is required by the defendants to effect the change of name of the defendant No. 2 from 'Belmond Park Resorts Private Limited' to some other name so as to be not in violation of the injunction and to have

CS(COMM) 863/2017

page 1 of 4

the various licences and permissions obtained for running the hotel and resorts and the services therein transferred from the old name to the new name. It is also stated that Mr. Rakesh Saini, Director of the defendant No. 2 Belmond Park Resorts Private Limited who is also the holder of attorney of defendant no.1 is present in the court.

3. The counsel for the defendants has handed over a copy of the Special Power of Attorney executed by the defendant No.1 in favour of Mr. Rakesh Saini and which is taken on record.

4. The counsel for the plaintiff states that the defendants ought to initiate the process for change of name and licences within two weeks of today and the injunction should come into operation as soon as the changes are affected by various authorities and a blanket time of six months be not granted to the defendants. It is further stated that the defendants should not oppose any application.

5. The counsel for the defendants states that he has no objection to starting the process of initiating the changes within four weeks of today.

6. In my opinion, even if the defendants were to so start the process, it is still essential to pass an executable decree that an outer limit when in any case the injunction would come into force, is fixed and also to enable the defendants, while approaching various authorities, to impress upon the authorities to act at the earliest, in view of the orders of the Court.

7. The aforesaid compromise arrived at between the parties is found to be lawful and is allowed.

8. A decree is passed, in favour of the plaintiff and against the defendants, in terms of prayer paragraphs 32(a) to 32(c) of the plaint dated 16th December, 2017 and with the directions; (i) that the two defendants, on or before 6th April, 2018, apply to all the authorities to which applications need to be made for change of name, licences, permissions; (ii) the authorities to which the defendants so apply to process the said applications at the earliest and to ensure that the decree of injunction today passed against the defendants comes into force at the earliest; (iii) that the defendants, to even after making the application, comply with all deficiencies/requirements communicated by the authorities concerned for compliance by the defendants so that there is no delay on the part of the defendants in having the change effected; (iv) that the decree of injunction aforesaid shall come into force immediately on (a) change of name of the defendant No.2 in the office of the Registrar of Companies; (b) the change in various licences and permissions as have been obtained by the defendants as of today being effected; however, if any new permission or licence is to be obtained by the defendants after today, the same to be applied for, instead of in the old name, in the proposed name; v) that the injunction order will in any case come into operation on expiry of six months from today that is on 6th September, 2018, irrespective of whether the defendants have been able to obtain the requisite changes or not and it will not be open for the defendants to then contend that they are unable to comply with the injunction for the reason of having been unable to obtain all the permissions or having been unable to have the name changed with any authority

whatsoever; and, vi) however, as far as the decree qua relief in para 32(c) is concerned, the same be complied on or before 6th April, 2018 and if it is not so complied, then GoDaddy LLC with which the domain name www.belmondpark.in is registered to on receipt of communication from the counsel for the plaintiff, effect the transfer even without any action on the part of the defendants.

9. A decree of permanent injunction is also passed in favour of the plaintiff and against the defendants, restraining the defendants from opposing any of the applications of the plaintiff for registration of the trademarks subject matter of this suit.

10. The parties are left to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

MARCH 06, 2018

SRwt..