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

+ **CS(COMM) 20/2016**

**AMERICAN INSTITUTE OF ENGLISH LANGUAGE
PRIVATE LIMITED**

..... Plaintiff

Through: Mr. Manish Singhal, Adv.

Versus

THE AMERICAN INSTITUTE

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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05.02.2018

1. The sole plaintiff has instituted this suit against the sole defendant for permanent injunction restraining the defendant from infringing the registered trade mark 'AMERICAN INSTITUTE OF ENGLISH LANGUAGE' of the plaintiff by adopting the mark 'THE AMERICAN INSTITUTE', for the same services as being rendered under the mark aforesaid by plaintiff and from thereby passing off its services as that of the plaintiff and for ancillary reliefs.

2. The suit was entertained and summons thereof issued, though no *ex-parte* order sought, granted.

3. The defendant failed to appear despite service and vide ad-interim order dated 13th May, 2016, the defendant was restrained from opening any institute or branch with the offending name and directed to keep accounts in respect of its business. Vide order dated 20th March, 2017, the defendant

was ordered to be proceeded against *ex-parte* and the ad-interim order made absolute till the decision of the suit and the plaintiff relegated to leading *ex-parte* evidence.

4. *Ex-parte* evidence remained to be recorded owing to the documents stated to be filed by the plaintiff being not traceable.

5. A perusal of the copies of the documents shows the registration of the plaintiff's mark to be as a label and not as a word mark and the font used by the defendant for the word 'AMERICAN' to be entirely different from the label of the plaintiff.

6. Even otherwise, it has been enquired from the counsel for the plaintiff, as to how the plaintiff can restrain anyone else from using the word 'AMERICAN'.

7. Though the counsel for the plaintiff has relied on ***ACL Education Centre Pvt. Ltd. Vs. Americans' Centre for Languages*** 2008 (36) PTC 113 Delhi and against which the counsel states that no appeal was preferred but a reading of the said judgment *inter alia* shows the same to be merely an interim order and to have been influenced by the dishonesty of the defendant in that case, who was earlier in the employment of the plaintiff and which is not the case here.

8. I am therefore not satisfied that the plaintiff can claim any rights over the word 'AMERICAN' or restrain others from using the same.

9. However, since the defendant in the present case has chosen not to contest the suit and has also not appeared despite interim order and which is stated to have been obeyed, making it clear that the plaintiff shall not use

this order in any other proceeding instituted by it, it is deemed appropriate to dispose of this suit by restraining the defendant, after three months of communication of this order, by a decree of permanent injunction from using the word 'AMERICAN' as part of its name or mark for providing services of teaching English language.

10. In the circumstances, the plaintiff is not found entitled to any other relief and is also not found entitled to any costs of the suit.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 05, 2018

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