

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

% **Decided on: 4th September, 2019**

+ **CS(COMM) 359/2019**

BENNETT, COLEMAN AND COMPANY LIMITED & ORS.

..... Plaintiff

Represented by: Mr. Vipul Tiwary, Ms. Shipra Alisha Philip, Advs.

versus

RISING INDIA ENTERTAINMENT PRODUCTION & ORS.

..... Defendant

Represented by: Mr. Bharat Chawla, Adv. for D-1.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. Plaintiffs' claim that being a part of Times Group they have been organising annual beauty pageant/contest in India under the brand/trademark 'MISS INDIA' since 1964 which had attained great reputation and goodwill in India and internationally. The trademark of the plaintiffs 'MISS INDIA' is registered in several classes including Class -38 and 41. The plaintiffs subsequently also obtained registrations for the trademark 'MR. INDIA' in Class -38 and 41. It is also claimed in the plaint that winners of 'MISS INDIA' contests/pageants then become eligible for international pageants and from India have been selected as MISS WORLD and MISS UNIVERSE over the years.

2. Grievance of the plaintiffs is that on 30th June, 2019 they came across an advertisement of an event/ beauty pageant to be organized under the ***CS(COMM) 359/2019***

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mark/ title MR. & MISS INDIA WORLD, which contained the plaintiff's well-known trademarks MISS INDIA and MR. INDIA. Defendants No.1 and 2 were promoting and advertising the said event/ beauty pageant on the facebook page inviting applications from the participants. The website of the defendants 1 & 2 further reflected Ms. Suman Rao who was the winner of the plaintiff's MISS INDIA 2019 contest as one of the judges in the upcoming Finale of the event.

3. The plaintiffs ascertained the facts from Ms. Suman Rao who denied any association with the impugned event and clarified that she had never accepted such an invitation for judging the Finale proposed to be organized by the defendant No.1. On further inquiry it was found that website of defendant No.1 was registered in the name of defendant No.2.

4. As regards defendant No.3 the claim of the plaintiff is that it is the Registrar of the impugned website which is operating in India through defendant No.4 namely Endurance International Group (India) Private Limited. However, learned counsel for the plaintiff submits that he does not claim any relief qua defendant No.3 and 4 except to remove the contents of website of defendant No.1 from that of defendant No.3.

5. Summons in the suit and notice in the application was sent to the defendants returnable for today.

6. Learned counsel for the defendant No.1 enters appearance and has handed-over the vakalatnama executed by Mr. Rohit Gupta and Mr. Sadiq the two partners of defendant No.1/ Rising India Entertainment Production which is taken on record.

7. Mr. Rohit Gupta and Mr. Sadiq are present in Court and their statements on oath have been recorded by this Court. In their statements they have stated that they were not aware of the plaintiff's trademarks and in future will not use the same or any deceptively similar marks.

8. In view of the statements of defendant No.1 and 2 recorded on oath before this Court, the suit of the plaintiff is decreed issuing a decree of permanent injunction restraining defendant No.1 & 2 or any of their other partners/ associates/ organizers/ assignees etc. from organizing the event/ beauty pageant under the trademark 'MISS INDIA' and/or 'MR. INDIA' or any other trademark which is deceptively similar to the plaintiff's trademark.

9. Learned counsel for the plaintiff does not press the relief as sought in prayers 'd', 'e', 'f', 'g' & 'h' of the suit.

10. Suit is disposed of accordingly. Decree sheet be prepared.

I.A. 9516/2019 (u/O 39 R 1&2 CPC)

Dismissed as infructuous.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 04, 2019
'ga'

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4th September, 2019

Statement of Mr. Rohit Gupta, age 23 years, S/o Sh. Charat Ram, R/o RZV-48A, Nihar Vihar, Nangloi (Mob. 8743006567) and Mr. Sadiq, age 28 years, S/o Mr. Sageer, R/o JN-61, DDA Flats, New Ranjit Nagar (Mob. 8860063974); the two partners of defendant No.1/ Rising India Entertainment Production.

On S.A.

We are the two partners of defendant No.1/ Rising India Entertainment Production. We were proposing to organize a beauty pageant under the name MISS and MR. INDIA but were not aware of the registration of the trademarks in favour of the plaintiffs and after coming to know the facts from the service of the plaint we have decided not to conduct the event.

In future if we conduct any such programme it will be in a different name which will not infringe the plaintiff's trademark MISS INDIA/ MR. INDIA. We further state that we would not adopt any trademark which is deceptively similar to the plaintiff's trademark.

RO & AC

MUKTA GUPTA, J.

SEPTEMBER 04, 2019

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