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

CS(COMM) 333/2018 & IA No.2026/2018 (u/O VII R-14 & O-18 R-4 CPC).

LOREAL ..... Plaintiff

Through: Mr. Ajay Amitabh Suman, Mr. Pankaj Kumar, Mr. Kapil Giri and Mr. Vinay Shukla, Advs.

versus

REHMAN BROTHERS & ANR. ..... Defendants

Through: Mr. Surender Chauhan, Mr. Kapil Kumar, Mr.Abhinav Kajal and Mr. Vikas Saini, Advs.

AND

\+ CS(COMM) 334/2018 & IA No.2027/2018 (u/O VII R-14 & O-18 R-4 CPC).

L'OREAL ..... Plaintiff

Through: Mr. Ajay Amitabh Suman, Mr. Pankaj Kumar, Mr. Kapil Giri and Mr. Vinay Shukla, Advs.

versus

REHMAN BROTHERS & ORS. ..... Defendants

Through: Mr. Surender Chauhan, Mr. Kapil Kumar, Mr.Abhinav Kajal and Mr. Vikas Saini, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% 22.01.2019

1. CS(COMM) No.333/2018 has been filed, for permanent injunction restraining the two defendants therein namely Rehman Brothers and Kamieo International from infringing the mark 'GARNIER' of the plaintiff by embossing the same on the counterfeit goods and thereby passing off the said goods as that of the plaintiff therein and for ancillary reliefs.

2. CS(COMM) 333/2018 came up first before this Court on 18th December, 2007 when while issuing summons/notice thereof, the defendants were restrained from manufacturing or selling any product under the trade mark 'GARNIER' and commission issued to the premises of the defendants. The said interim order continues till now.

3. CS(COMM) No.334/2018 has been filed by the plaintiff for permanent injunction restraining the two defendants namely Rehman Brothers and Kamieo International from infringing the mark 'L'OREAL' of the plaintiff by embossing the same on the counterfeit goods and passing them off as that of the plaintiff and for ancillary reliefs. The said suit came up before this Court first on 18th December, 2007 when vide *ex parte ad interim* order the defendants were restrained from manufacturing or selling any product under the trade mark 'L'OREAL'.

4. Issues have been framed in both the suits and recording of evidence under way. The plaintiff has also filed applications for filing additional documents which are lying under objection.

5. The counsel for the defendant no.1 Rehman Brothers in both the suits states that the defendant no.2 in each suit has already settled with the plaintiff and suffered an order of permanent injunction as claimed and paid lump-sum compensation of Rs.50,000/- to the plaintiff in both suits. The counsel states that defendant no.1 also is willing to suffer a decree for permanent injunction as claimed in both the suits and offers to pay lump-sum Rs.50,000/- to the plaintiff in both the suits.

6. The counsel for the plaintiff states that the plaintiff is willing to the aforesaid subject to Rs.50,000/- being paid with respect to each of the suits.

7. It is also stated that the right of the defendant no.1 to file written statement in both the suit stands closed.

8. The counsel for the defendant No.1 in both the suits states that the defendant No.1 is not willing to pay Rs.1,00,000/- in total in both the suits.

9. I am of the view that the suits cannot be kept pending when the controversy is limited to the aforesaid extent.

10. The Court, on the basis of reports of the commission issued, is entitled to award lump-sum damages. In any case the Court is empowered to award the costs of the suit to the plaintiff.

11. A decree is thus passed in favour of the plaintiff in each of the suits and against the defendant no.1 in each of the suits, of permanent injunction in terms of prayer paragraph 35(a) of the plaint dated 11th January, 2013 in CS(COMM) No.333/2018 and in terms of prayer paragraph 31(a) of the plaint dated 14th December, 2007 in CS(COMM) No.334/2018.

12. The plaintiff is also awarded costs/damages in the sum of Rs.1,00,000/- in each of the suits. However if the defendant No.1 pays Rs.50,000/- in each of the suits on or before 22nd February, 2019, the same shall be accepted in full and final settlement of the decree for damages/costs in the sum of Rs.1,00,000/- in each of the suits and if the said amount is not paid, the damages/costs of Rs.1,00,000/- in each suit will also incur interest at 10% per annum till the date of recovery.

Decree sheets be drawn up.

RAJIV SAHAI ENDLAW, J

JANUARY 22, 2019
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