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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 450/2018**
KWALITY THREADS PVT. LTD. Plaintiff
Through: Mr. Abhishek Bhardwaj, Adv.
Versus
POOJA THREADS Defendant
Through: Ms. Shantha Devi Raman & Mr. S.
Sen, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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07.01.2019

IA No.15556/2018 (of the plaintiff under Section 151 CPC seeking leave to file document)

1. The plaintiff seeks to file the Certificate of Registration of the mark, for restraining passing off by use whereof the present suit has been filed.
2. The suit, as filed, is for restraining passing off by the defendant and is not for infringement of trade mark. Without the suit being for infringement of trade mark, the filing of certificate of registration will not serve any purpose.
3. Upon the same being put to the counsel for the plaintiff / applicant, he has no answer.
4. The application is misconceived and is dismissed with costs of Rs.10,000/- payable by the plaintiff to the counsel for the defendant as a pre-condition for proceeding further with the suit.

IA No.8221/2007 (of the plaintiff under Order XXXIX Rules 1&2 CPC)

5. The counsels state that there is no interim order till now and in fact the suit is at the stage of final arguments.
6. The application is infructuous and is dismissed.

CS(COMM) 450/2018

7. The counsel for the plaintiff is not prepared to argue the suit and seeks adjournment.
8. The counsel for the defendant draws attention to the order dated 15th March, 2016 recording that the suit was liable to be dismissed and granting further opportunity to the plaintiff to take remedial steps. On enquiry, it is stated that no further evidence has been led by the plaintiff thereafter.
9. It appears that the plaintiff is merely keeping this suit pending without any intent to succeed in the same.
10. The adjournment for final argument also is granted subject to the plaintiff paying further costs of Rs.10,000/- to the counsel for the defendant.
11. List on 31st January, 2019.

RAJIV SAHAI ENDLAW, J.

JANUARY 07, 2019

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