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

+ **CS(COMM) 48/2016**

LUXOTTICA GROUP S.P.A Plaintiff

Through: Mr. Rishi Bansal with Mr. Pankaj Kumar,
Mr. Kapil Kumar Giri & Mr. Krishan
Gambhir, Advs.

versus

CRAFTSVILLA HANDICRAFTS PRIVATE LIMITED & ORS.

..... Defendants

Through: Mr. Vineet Dwivedi & Mr. Vivek Pathak,
Advs. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **06.02.2020**

IA No.15573/2019(u/O.IX R-13 CPC) and IA No.15574/2019(for delay of 29 days' in filing IA)

1. IA No.15573/2019 and IA No.15574/2019 have been filed by the defendant no.2 Rubicon Exim Pvt. Ltd. under Order IX Rule 13 of the CPC and for condonation of delay of 29 days in applying therefor, for setting aside of the order dated 2nd August, 2019 proceeding *ex parte* against the applicant/defendant no.2.
2. There is no *ex parte* decree as yet, for an application under Order IX Rule 13 of the CPC to be filed.
3. Mr. Vineet Dwivedi, Advocate blames the earlier counsel Mr. Abhishek Chawla and his drafting counsel Mr. Vivek Patil, for filing a wrong application and withdraws the same with liberty to file afresh.
4. Dismissed as withdrawn with liberty aforesaid.

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5. The counsel for the plaintiff states that the plaintiff instituted this suit against defendants no. 1 to 9 namely (i) M/s Craftsvilla Handicrafts Pvt. Ltd.; (ii) M/s Rubicon Exim Pvt. Ltd.; (iii) M/s Ninety Nine labels Pvt. Ltd.; (iv) M/s Home and Bazaar; (v) M/s Alpha Infolab Pvt. Ltd.; (vi) M/s Ioffer Inc.; (vii) John Doe; (viii) The Department of Telecommunications (DOT); and, (ix) Department of Electronics and Information Technology (DeitY), for permanent injunction to restrain the defendants no.1 to 7 from infringing the trade mark RAY-BAN of the plaintiff by selling fake/spurious goods under the mark of the plaintiff on their respective electronic platforms. It is further stated that defendants no. 8 and 9 were impleaded, for compliance of the orders sought and the suit vis-à-vis defendant no.7 John Doe/Ashok Kumar has not been pursued. It is yet further stated that directions have already been issued to the defendants no. 8 and 9 with respect to the websites and electronic platforms impugned. It is further stated that the suit, insofar as against defendants no.1, 5 and 6, has been disposed of and now remains only against the contesting defendants no. 2 to 4, who were all proceeded against *ex parte*. It is yet further stated that the plaintiff has led and closed its *ex parte* evidence.

6. The plaintiff on the basis of pleadings and evidence led, has made out a case for grant of relief of permanent injunction as claimed.

7. The counsel for the plaintiff, on enquiry whether the quantum of sales by each of the defendants no. 2 to 4 have been proved, fairly states that no substantial evidence could be led on the same and further states that he is not pressing for damages and is pressing only for costs of the suit.

8. A decree is accordingly passed, in favour of the plaintiff and against the defendants no. 2, 3 and 4, namely (i) M/s Rubicon Exim Pvt. Ltd.; (ii) M/s Ninety Nine labels Pvt. Ltd.; and, (iii) M/s Home and Bazaar, of (I) permanent injunction in terms of prayer paragraph 81 (a) (i) to (iii) of the plaint dated 18th January, 2016; and, (II) recovery of costs computed at the court fees paid plus legal fee and expenses assessed at Rs.5 lakhs and recoverable proportionately from the defendants no. 2, 3 and 4 aforesaid.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

FEBRUARY 06, 2020

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