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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 1294/2018 & I.As. 17354/2018, 3682/2019, 3683/2019

IMPRESARIO ENTERTAINMENT & HOSPITALITY PVT. LTD.

..... Plaintiff

Through: Ms. Shikha Sachdeva, Adv. with
Ms. Mugdha Palsule, Adv.

versus

MR. MEHTAB SINDHU & ORS. Defendants

Through: Ms. Smita Maan, Adv. with
Mr. Aakash Sehrawat, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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18.02.2020

The suit has been filed by the plaintiff with the following prayers:

“A. The Defendant, its directors, principals, proprietor, partners, employees, agents, distributors, franchisees, representatives and assigns be restrained by a permanent injunction from:

i) manufacturing, selling, marketing, advertising and/or offering its services and/or in any other manner using and/or allowing or permitting third parties to manufacture, market, advertise and/or use the trade mark 'SOCIAL' and/or any other trade mark or name similar to the Plaintiffs trade mark 'SOCIAL' and its variants either as, a trade mark or part of a trade mark, a trade name or corporate name or as a part of a domain name, or in any other manner whatsoever so as to infringe the registered trade marks of the Plaintiff and/or

any part thereof;

ii) manufacturing, selling, marketing, advertising and/or offering its services and/or in any other manner using and/or allowing or permitting third parties to manufacture, market, advertise and/or use the trade mark 'SOCIAL' and/or any other trade mark or name similar to the Plaintiffs trade mark 'SOCIAL' and its variants either as, a trade mark or part of a trade mark, a trade name or corporate name or as a part of a domain name, or in any other manner whatsoever so as to pass off its trade mark as and for the trade marks of the Plaintiff;

B. The Defendant including its directors, agents, representatives and assigns be ordered by a decree of mandatory injunction directing that they at their own expense:

i) recall all the products and marketing, promotional and advertising materials that bear or incorporate the 'SOCIAL' trade mark and/or any other mark similar to the Plaintiffs' registered 'SOCIAL' trade marks, which has been manufactured, distributed, sold or shipped by it, and to reimburse all customers from which said materials are recalled;

ii) deliver to the Plaintiffs' attorneys or representatives for destruction all products, labels, signs, prints, packages, receptacles, advertisements and moulds in its possession or under its control, bearing the trade marks 'SOCIAL' or any other trade mark deceptively similar to the Plaintiffs registered trade mark 'SOCIAL', which has been manufactured, distributed, sold or shipped by it;

iii) provide a complete discovery of any and all documents (including packaging material) and information relating to any and all transactions concerning the marketing and sale of its offending services offered for sale under the trade mark 'SOCIAL' including full particulars of all parties to whom the Defendant has sold and/ or sells these offending services in India and/or abroad in any other manner whatsoever;

iv) disclose to the Plaintiff any trade mark and/or copyright applications/registrations for the impugned trade mark and/or any other trade mark made by them which is identical and/or deceptively similar to the Plaintiff's trade marks;

v) remove all references of the impugned trade mark from third party websites where the Defendant's goods and/or services are sold, offered for sale, promoted and/or advertised under the impugned trade marks 'THE SOCIAL CHAMBER' and/or 'SOCIAL' and/or any other trade mark deceptively similar to the Plaintiff's trade marks;

vi) Defendant, to transfer the website/domain www.thesocialchamber.in to the Plaintiff and to provide a full and fair disclosure of any other website/ domain obtained by the Defendant which is similar or contains the Plaintiff's trade mark;

C. The Defendant be required to render an account of all transactions concerning the offending activities set out in the plaint and the Plaintiff then be given the accounts for profits for the amount found due. The Plaintiff undertakes to

pay the deficiency in Court Fee after an account for profits is made in favour of the Plaintiff;

D. Damages be awarded in favour of the Plaintiff

E. Costs of the suit be awarded to the Plaintiff;
and

Any other relief which the Hon'ble Court thinks fit and proper in the circumstances of the case be allowed in favour of the Plaintiff and against the Defendant.”

On the last date of hearing i.e. 12.02.2020, this Court had passed the following order:

“Ms. Samita Maan, learned counsel appearing for all the defendants states that as per her instructions, the defendants have changed the name of their restaurant from “*THE SOCIAL CHAMBER*” to “*THE SPECIAL CHAMBER*”.

Learned counsel for the plaintiff seeks sometime to take instructions as this change would answer the grievance of the plaintiff in this suit.

At her request, re-notify on February 18, 2020.”

Noting the submission made by the learned counsel for the defendants, the learned counsel for the plaintiff sought time to take instructions.

Learned counsel for the defendants also states that the website/domain name of as www.thesocialchamber.in shall also be accordingly changed to www.thespecialchamber.in. She also states that henceforth no reference shall be made by the defendants to the trade name “*THE SOCIAL*

CHAMBER/SOCIAL”.

Today the learned counsel for the plaintiff states that the plaintiff is satisfied with the representation made by the defendants that henceforth they shall not use the trade name “SOCIAL CHAMBER” as the name of their restaurant or with regard to the domain name or in any manner whatsoever, the suit be decreed subject to payment of cost of Rs.6.50,000/- to the plaintiff.

I have heard learned counsel for the parties, and after hearing them this Court is of the view that in view of the order dated 12.02.2020 and the submissions made by the learned counsel for the defendants today, the suit be decreed. It is ordered accordingly, subject to payment of cost of Rs.75,000/- to the plaintiffs. Decree sheet shall be drawn accordingly.

All pending applications have become infructuous and disposed of accordingly.

V. KAMESWAR RAO, J

FEBRUARY 18, 2020*/jitender*