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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 08th March, 2022

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CS(COMM) 80/2021 and I.A. 3470/2022

TATA SONS PRIVATE LIMITED & ANR. Plaintiffs

Through: Mr. Pravin Anand, Mr. Achuthan
Sreekumar and Mr. Rohit Bansal, Advocates.

versus

CHIRAG PRAMOD SHAH AUTHORISED
REPRESENTATIVE AND PROPRIETOR
ANA REALTY & ORS.

..... Defendants

Through: Mr. Mahesh Rajpopat, Advocate for
D-1 and 2.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JYOTI SINGH, J (ORAL)****I.A. 3470/2022**

1. Present application has been preferred by the Plaintiffs under Order XIII A read with Section 151 CPC seeking summary judgment.
2. As per the case set up by the Plaintiffs in the plaint, Plaintiff No.1 is a company duly incorporated in the year 1917 under the Indian Companies Act, 1913. Plaintiff No. 2 incorporated in the year 1962, is an integrated engineering consultant, providing concept to commissioning services in various sectors such as power, infrastructure, hydrocarbons and chemicals, mining and metallurgy etc. and is a 100% subsidiary of Plaintiff No.1. Details of the Plaintiffs' background and activities are mentioned in paras 5 to 11 of the plaint.
3. Plaintiff No.1, its Group Companies, subsidiaries as well as Companies promoted by it, have laid the foundation in the industrial core sector, textiles, iron and steel, automobiles, etc. and have also branched into computers, computer



softwares, electronics, telecommunications, broadcasting, aerospace, to name a few. The conglomeration of Tata Companies, collectively referred to as 'House of Tata', it is averred, was recently declared to be India's most valuable brand by 'Interbrand'. Plaintiffs have placed on record several documents illustrating the immense goodwill, repute and fame associated with its business activities under the marks TATA and the 'T' within a circle device.

4. The trademark TATA is derived from the surname of Plaintiffs' founder and is a rare patronymic name possessing the distinctiveness of an invented word. It is averred that Plaintiffs are the owners and registered proprietors of well-known

trademarks TATA as well as 'T' within a circle device mark



and



and various other TATA formative marks by virtue of priority in adoption, long, continuous and extensive use as well as advertising and the reputation consequently accruing thereto in the course of trade. Plaintiff No.1 has licensed Plaintiff No.2 to use the said marks by virtue of a License Agreement dated 20.01.2010, also known as Brand Equity and Business Promotion Agreement.

5. The aforesaid marks have been exclusively used by the Plaintiffs and their Group Companies/subsidiaries, etc. and it is uniformly perceived as indicative of the source of the products/services emanating from the Plaintiffs and the 'House of Tata'. It is further averred that the above marks have been acknowledged in various judgments by this Court as well as the Trade Marks Registry as well-known trademarks. Plaintiffs have filed a list of well-known trademarks maintained by the said Registry which acknowledges the aforementioned trademarks as well as the device as well-known trademarks within the meaning of Section 2(1)(zg) read with Section 11(6) of the Trade Marks Act, 1999. Details of the registrations obtained by the Plaintiffs in classes 37 and 42 are placed on record.



6. It is further averred that Plaintiff No.1 is also the registered proprietor of the Copyrights vested in the following devices:-



7. Copies of the Copyright Registration Certificates have been filed on record. Plaintiffs have also placed on record a list of well-known trademarks which features the said trademarks as well as the device, aforementioned.

8. The facts leading to filing of the instant suit are as under:

(i) On 23.10.2013, Plaintiff No.2 and Defendants (in particular Defendant No.1 through M/s. ANA Realty) entered into a formal agreement by way of a Letter of Intent, whereby Plaintiff No.2 agreed to provide integrated design consultancy services to the Defendants for their project titled ANA Realty, located at Western Freeway, Kashmira Junction, Near Dahisar Check Naka, District Thane, Maharashtra.

(ii) Plaintiff No.2 had never authorised or allowed the Defendants to use

the Plaintiffs' well-known trademarks TATA or,  or, , in any manner whatsoever.

(iii) In December, 2020, Plaintiffs came to know that Defendants are unauthorizedly using the Plaintiffs' well-known trademarks TATA

and  and  on their hoardings as well as on their online pages such as their website i.e. www.anar.com and other social networking pages such as Instagram, Facebook etc. The screenshots and photographs showing the Defendants' infringing use have been filed on record.



(iv) Plaintiffs' endeavoured to amicably resolve the matter with the Defendants by sending letters/emails as also telephonically. Despite such efforts, Defendants did not refrain from infringing the Plaintiffs' trademarks and copyrights, constraining the Plaintiffs to file the present suit.

9. Present suit has been filed by the Plaintiffs seeking the following reliefs :-

“(i). *An order for permanent injunction restraining the Defendants, their partners or proprietors, as the case may be, its officers, servants and agents from manufacturing, selling, offering for sale, supplying, advertising, directly or indirectly dealing in any business unauthorisedly using the Plaintiffs'*

well-known trademarks TATA and  *and*  *amounting to infringement of the Plaintiffs' registered*

trademarks TATA and  *and*  *, the details of which are given at serial no. 8 (at pages 30 to 85), serial no. 9 (at pages 86 to 176), serial no. 11 (at pages 179 to 190) and serial no. 12 (at pages 191 to 197) of the list of documents filed along with the instant suit; and*

(ii) *An order for permanent injunction restraining the Defendants, their partners or proprietors, as the case may be, its officers, servants and agents from manufacturing, selling, offering for sale, supplying, advertising, directly or indirectly dealing in any business unauthorisedly using the*

Plaintiffs' well-known trademarks TATA and  *and*  *amounting to infringement of the Plaintiffs' registered copyright nos. A-58315/2001, A-58313/2001, A-58314/2001 and A-58312/2001, the details of which are given at serial no. 13 (at pages 198 to 205), of the list of documents filed along with the instant suit; and*



(iii) An order for permanent injunction restraining the Defendants, their partners or proprietors, as the case may be, its officers, servants and agents from manufacturing, selling, offering for sale, supplying, advertising, directly or indirectly dealing in any business unauthorisedly using the Plaintiffs'

well-known trademarks TATA and  and  and/or any mark(s) confusingly or deceptively similar to the said marks amounting to passing off of the Defendants' services / goods as that of the Plaintiffs'; and

(iv) An order of permanent injunction restraining the Defendants or their agents, or any other person acting for and on its behalf etc. from engaging in any act whatsoever that will result in the dilution and tarnishment of the

Plaintiffs' well-known trademarks TATA and  and ; and

(v) For an order of permanent injunction directing the Defendants to immediately stop using and to take down all references to the Plaintiffs' well-known trademarks TATA and

 and  from its website, Facebook, Instagram and other online platforms as well as from the physical hoardings of the Defendants; and

(vi) An order for delivery up of all the goods bearing the impugned mark/device, dies, blocks, cartons, labels, carry bags, hoardings, promotional literature and any other infringing material to the authorized representatives of the Plaintiffs for the purposes of destruction; and

(vii) An order for rendition of accounts of profits illegally earned by the Defendants on account of the misuse of the



*Plaintiffs' well-known trademarks TATA and  and  **TATA** and / or any deceptively similar mark/name thereto and a decree for the amount so found be passed in favour of the Plaintiffs; and*

(viii) An order for damages in the sum of Rs. 2 crores in favour of the Plaintiffs and against the Defendants on account of the unauthorized use of the impugned mark/name/device and a decree for the said amount be passed in favour of the Plaintiffs; and

(ix) An order for costs of the proceedings against the Defendants and in favour of the Plaintiffs”

10. After hearing the parties on 24.02.2021, this Court passed an *ad-interim* injunction against Defendants No.1 and 2 in terms of prayers (i) to (iii) of I.A. No.2415/2021. On 15.03.2021, learned counsel for the Defendants stated before the Court that except for one hoarding and advertisement on its Instagram and twitter accounts, reference to the Plaintiffs' logo and trademark had been removed from all other sites and it was undertaken that representation shall be removed from the lone remaining hoarding before the next date of hearing.

11. Subsequently the Instagram accounts of Defendants No.1 and 2 were deleted and the offending marks were also removed from the twitter accounts. Vide order dated 07.01.2022, right of the Defendants to file written statement was closed.

12. Learned counsel for the Plaintiffs contends that issues have not been framed in the matter and Defendants have admittedly no defence whatsoever and therefore there is no real prospect of successfully defending the claim. In any case, Defendants have removed the offending marks and therefore the Plaintiffs are



entitled to a summary judgment without proceeding to frame issues and record evidence. Plaintiffs rely on the following judgments to support their claim for a summary judgment :-

- (a) *Ahuja Radios vs A Karim, CS(COMM) No. 35 of 2017 – Order Dated 01.05.2017, Para 5*
- (b) *Ambawatta Buildwell Pvt. Ltd. Vs Imperia Structure Ltd. & Ors., 2019 SCC OnLine Del 8657, Para 39*
- (c) *Bright Enterprises Pvt. Ltd. vs MJ Bizcraft LLP, 2017 SCC OnLine Del 6394, Para 21*
- (d) *Jindal Saw Limited vs Aperam Stainless Services, 2019 SCC OnLine Del 9163, Para 25,26*
- (e) *Kaamdheni Ltd. vs Aashiana Rolling Mills, 2021 SCC OnLine Del 2426, Para 34,36,49*
- (f) *KR Impex vs Punj Lloyd, 2019 SCC OnLine Del 6667, Para 28*
- (g) *Mallcom (India) Ltd. vs Rakesh Kumar, 2019 SCC OnLine Del 7646, Para 24,25,26,27,29*
- (h) *Oxbridge Associates Ltd. vs Atul Kumra, 2019 SCC OnLine Del 10641, Para 9*
- (i) *Su-Kam Power Systems Ltd. vs Kumar Sachdev & Anr., 2019 SCC OnLine Del 10764, Para 38,44,49,52*
- (j) *Universal Contractors and Engineers P. Ltd. vs National Projects Constructions Corporation Ltd., 2019 SCC OnLine Del 11436, Para 26*
- (k) *Venezia Mobili India Pt. Ltd. vs Ramprastha Promoters and Developers Pvt. Ltd., 2019 SCC OnLine Del 7761, Para 30,33,35,36*

13. Mr. Anand further submits, on instructions, that since Defendants No.1 and 2 have removed the infringing hoardings and advertisements from all the platforms and have stopped use of the Plaintiffs' well-known trademark TATA as

well as the 'T' within a circle device  and , Plaintiffs are ready to forgo their claims for damages and costs, in the event the Defendants are willing to suffer an injunction in terms of prayers enumerated in paragraph 51 (i), (ii), (iii), (iv) and (v) of the plaint.



14. Learned counsel appearing on behalf of Defendants No.1 and 2, submits that the answering Defendants have discontinued and taken down the Plaintiffs' well-known trademark TATA as well as the 'T' within a circle

device  and , from all platforms such as hoardings, online and physical. It is submitted that Defendants are willing to suffer an injunction in case the Plaintiffs give up their claim for costs and damages.

15. In light of the aforesaid, application is allowed. Present suit is decreed in favour of the Plaintiffs and against Defendants No.1 and 2 in terms of prayers enumerated in paragraph 51 (i), (ii), (iii), (iv) and (v) of the Plaint, with no orders as to costs and damages, in light of the statement of the learned counsel for the Plaintiffs, foregoing the claim for costs and damages.

16. Registry is directed to prepare a Decree sheet accordingly.

17. With the aforesaid observations, present suit and pending application stand disposed of.

MARCH 08, 2022/sn

JYOTI SINGH, J