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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 25th August, 2023

+ **CS(COMM) 666/2019 and I.A. 773/2023**
TATA SONS PVT. LTD. Plaintiff

Through: Mr. Pravin Anand, Mr. Achuthan Sreekumar, Mr. Rohil Bansal & Ms. Apoorva Prasad, Advs. (M: 8375020439)

versus

MANGAL YADAV & ANR. Defendants

Through: Mr Umesh Mishra & Mr Amit Yadav, Advocates for D-2. (M: 9868401295)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

1. This hearing has been done through hybrid mode.
2. The present suit relates to the trademark 'TATA'.
3. The suit has been filed by the Plaintiff - TATA Sons Pvt. Ltd, which is the principal investor and promoter of the TATA group of companies seeking permanent injunction restraining infringement of registered trademarks and copyrights, passing off, dilution and tarnishment of trademarks, etc.
4. The mark 'TATA' is one of the most reputed marks in India. The group was founded by Shri Jamsetji Nusserwanji Tata, which is a rare patronymic name possessing the distinctiveness of an invented word. The use of the mark 'TATA' dates back to 1868. The group of Tata companies is generally known as the '*House of Tata*'. The mark 'TATA' is registered in almost all goods and services considering the large expanse of the usage of the said mark. The mark 'TATA' has been subject matter of litigation of several cases and injunctions have been granted protecting the mark. The



TATA group of companies as on date has a consolidated revenue of \$128 Billion. Undoubtedly, the mark 'TATA' is a well-known mark.

5. The present suit relates to manufacture of pressure cookers under the mark 'TATA' by Defendant No.1 - Mangal Yadav trading as M/s. R.M.I. Enterprise and Defendant No.2 - Sanjeev Jain trading as A&A Packaging. The Defendant No.1 is the manufacturer and seller of the pressure cookers under the mark 'TATA'. The cartons and the printing of the packaging was being done by the Defendant No.2. Plaintiff acquired knowledge of the Defendants using the mark 'TATA' for pressure cookers sometime in November, 2019. Accordingly, the present suit was filed.

6. Vide order dated 6th December, 2019, an *ex-parte ad interim* injunction was granted and Local Commissioners were appointed. The said injunction was granted in the following terms.

"9. Consequently, the defendants are restrained until the next date of hearing from manufacturing or dealing in pressure cookers or any other product or packaging material bearing the plaintiffs trademark

*'TATA' or device mark **TATA** or any other mark deceptively similar thereto."*

7. Accordingly, local commissions were executed at the premises of the Defendants. Insofar as the Defendant No.2 is concerned, the local commission was conducted on 6th December, 2019. The local commissioner reported that the Defendant No.2 - Mr. Sanjeev Kumar Jain informed him that he had been supplying the packaging with 'TATA' mark to Defendant No.1. However, upon being asked by the local commissioner, Defendant No.2 did not produce any invoices or accounts. The Commissioner then inspected the premises and found packaging material for pressure cookers



bearing the mark 'TATA'. The inventory seized by the said commissioner is to the tune of 1678 pieces of two litres and five litres pressure cookers in cardboard boxes. The mark 'TATA' was used in two variant forms in brown and blue colour packaging. The images of some of the infringing packaging material is set out below:





8. Insofar as Defendant No.1 is concerned, the local commission was conducted on 11th December, 2019 - the inventory seized by the commissioner is as under:

INVENTORY

(1)	<i>Enclosing Stamp of TATA</i>	<i>1 Nos.</i>
(2)	<i>TATA Stickers</i>	<i>41 Nos.</i>
(3)	<i>Unusual TATA packing Material (Cartons)</i>	<i>189 Nos</i>
(4)	<i>3L Cookers in packaging Bearing TATA Mark on Packaging</i>	<i>191 Nos.</i>
(5)	<i>5 Cookers in packaging Bearing TATA mark a Packaging</i>	<i>404 Nos.</i>

9. Also from the inspection of the Defendant no.1's premises, it was revealed that the mark 'TATA' was also being embossed on the pressure cooker itself. The 'TATA' stamp, which was found at the Defendant's premises, was also seized by the Local Commissioner.

10. The present application i.e. ***I.A. 773/2023*** has been filed by the Plaintiff seeking summary judgment.

11. Insofar as the Defendant No.1 is concerned, the Defendant No.1 is stated to have filed the written statement and served a copy of the same to Id. Counsel for the Plaintiff. He has also filed an admission/denial affidavit admitting various documents. The said written statement, which was filed along with the statement of admission/denial is stated to have returned vide order dated 21st August, 2020. However, the same appears to have not been re-filed as the written statement of Defendant no.1 is not on record.

12. A perusal of the copy of the written statement served by Defendant No.1's counsel Mr. B.P. Puri to Id. Counsel for the Plaintiff shows that the written statement has merely denied all the averments in the plaint without



raising any defence whatsoever. The statement of admission/denial annexed to the written statement, admits the well-known nature of the documents illustrating well known nature of the Plaintiff's well known trademark, the Plaintiff's website, news articles, trademark registrations, brochures, press clippings etc. The complete list of documents, which has been admitted by the Defendant No.1 is as under:

S.No	Particulars of documents	Statement of correctness of contents	Statement of existence of document	Statement of execution of a document	Statement of issuance of receipt of a document	Statement of custody of the document	Page No
1	Copy of board resolution issued by the plaintiff in favour of Mr. R. Sriraman	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		10
2	Copy of the Power of Attorney issued in favour of Mr. R. Sriraman by the Plaintiff	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		11-14
3	Original Affidavit of the independent investigator	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		15-21
4	Copy of documents illustrating the 'well-known' nature of trademark TATA of the Plaintiff.	Admitted on account of existence of document					22-31



5	Printout of the website of the plaintiff (part-I)	Admitted on account of existence of document				33-243
6	Printout of the website of the plaintiff (part-II)	Admitted on account of existence of document				243-331
7	Printout of the featured news articles on the Plaintiff (part-I)	Admitted on account of existence of document				332-494
8	Printout of the featured news articles on the Plaintiff (part-II)	Admitted on account of existence of document				497-561
9	Copy of tabulated list of the plaintiff's trademark registration for the word mark 'TATA' along with copies of the printouts from the website of the trademark's registry, government of India	Admitted on account of existence of document				562-728
10	Copy of the Plaintiff's trademark registrations for the mark	Admitted on account of existence of document				731-813



	TATA and various TATA derivative marks along with copies of its registration certificate						
11	Copy of the Brochure for the year 2015-2016 illustrating business activities of the House of TATA	Admitted on account of existence of document					814-938
12	Copy of financial highlights of the house of TATA for the year 2014-2017	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of execution of document		939-963
13	Printout of the plaintiff's trademark registration certificate of trademark in class-21	Admitted on account of existence of document					969-999
14	Table code of conduct	Admitted on account of existence of document					1000-1035
15	Copy of the extract from the Encyclopaedia Britannica on	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1036-1040



	TATA as well on TATA GROUP					
16	Copy of the write-up dated 24 th May, 2009, titled 'T for trust' appearing in 'The Week' magazine acknowledging the plaintiff as the world's 11 th most reputed company	Admitted on account of existence of document				1041-42
17	Copy of message dated 18 th July, 1998 from the then Hon'ble Prime Minister of India, Shri A B Vajpayee on 93 rd Birth Anniversary of Late Shri J R D TATA	Admitted on account of existence of document				1043
18	Printout of the judgement dated 23.03.2011 passed by Hon'ble Mr. Justice V K Jain In CS (OS) No. 232/2009	Admitted on account of existence of document				1044-1080
	Certified copy of the Certificate of	Admitted on account of existence				1081-1082



	Incorporation of Plaintiff	of document					
20	Certified copy of the ledger book maintained by TATA Services Ltd.	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1083
21	Copy of the original receipt number 475100 issued by M.C.D. to the plaintiff	Admitted on account of existence of document					1084
22	Copy of the printout from the website of the plaintiff illustrating the location of the various offices of the complaint	Admitted on account of existence of document					1085-1101
23	Copy of the certificate evidencing the change of name of the plaintiff from the TATA Sons Ltd. to TATA Sons Pvt. Ltd.	Admitted on account of existence of document					1102
24	Photographs of the infringing pressure copiers of the defendant no.1	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1103-1105
25	CD containing the video showing the	Denied on account of correctness	Denied on account of existence	Denied on account of execution	Denied on account of issuance		1106



	Defendant No.1 making the TATA branded pressure cooker	of document	of document	of document	of document		
26	Hash value of the video in a PDF document	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1107
27	Memorandum under Order 11 Rule 24 by the investigator	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1108-1110
28	Memorandum	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1111
29	Affidavit under Order 11 Rule 6 (3) of the Commercial Court Act, 2015	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1112-1117
30	Certificate under section 65B of the Indian Evidence Act, 1872.	Denied on account of correctness of document	Denied on account of existence of document	Denied on account of execution of document	Denied on account of issuance of document		1118-1122

13. Mr. Umesh Mishra, Id. Counsel for the Defendant No.2 submits that the Defendant No.2 was merely manufacturing packaging material for the Defendant No.1. The Defendant No.2 itself did not make any sales or any products under the brand name 'TATA'. Be that as it may, even the printing of the packaging with the name 'TATA' cannot be condoned. The Plaintiff is entitled to the summary judgment *qua* Defendant No.2.

14. Insofar as the Defendant No.1 is concerned, the said Defendant has admitted the well-known nature of the Plaintiff's mark as also admitted various trademark registrations of the Plaintiff. In any event, the use of the



mark 'TATA' by the Defendant No.1 in respect of the pressure cookers is completely violative of the Plaintiff's statutory and common law rights. The mark 'TATA' is now sufficiently ingrained in the minds of customers in India and globally. The use of the mark 'TATA' in respect of any products or services, would only be relatable to the Plaintiff and none else. Thus, the use of the mark 'TATA' seal on the products is completely not condonable, inasmuch as even the logo of 'TATA' is fully imitative. Thus, the Plaintiff is entitled to the summary judgment *qua* Defendant No.2.

15. Accordingly, a decree is granted against the Defendant No.1 and 2 in terms of paragraphs 35(i) & (ii) of the Plaint. The same are extracted herein below:

*“(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 of pressure cookers and packaging material thereof bearing the Plaintiffs well-known trademark TATA/ **TATA** and/or any mark(s) confusingly or deceptively similar to the Plaintiffs wellknown trademark TATA amounting to infringement of its registered trademarks mentioned in Paragraph 14 of the instant plaint as well as in the list of Plaintiffs trademark registrations filed in the present proceedings; 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, supplying and selling of pressure cooker and packaging material thereof bearing the Plaintiffs wellknown trademark TATA/ **TATA** and/or any mark(s) confusingly or deceptively similar to the*



Plaintiffs well-known trademark TATA amounting to passing off of the Defendants' goods and services as that of the Plaintiff;”

16. A perusal of the Local Commissioner's inventory with respect to the seizure made from the premises of the Defendant No.1 would show that the total pieces that could have been manufactured by using the seal, packaging and products as also other packaging in Defendant No.1 and Defendant No.2's premises and use of the seal, would be more than 2500 in number. If this was the stock available on a single day when the Local Commissioner visited the premises of the Defendants it can be safely assumed that the Defendants were manufacturing and selling a substantial quantity of Pressure cookers under the mark TATA. Considering the nature of the product, there is considerable probability of dilution of the TATA brand. Also the nature of the product is that which requires high quality control standards as any compromise on quality could prove to be dangerous in a kitchen setting.

17. Considering that the present case is a commercial suit, as per the judgment of the Hon'ble Supreme Court in *Uflex Ltd. v. Government of Tamil Nadu & Ors. [Civil Appeal Nos.4862-4863 of 2021, decided on 17th September, 2021]*, actual costs are liable to be awarded.

18. The value of the stock being taken into the consideration as also the costs incurred by the Plaintiff, the suit is decreed for a sum of Rs.11 lakhs against the Defendant No.1 towards damages and costs.

19. The stock of the Defendant No.1 shall also be destroyed in the presence of the Plaintiff's representative.



20. Insofar as the damages/costs qua the Defendant No.2 is concerned, the suit is decreed qua the Defendant No.2 for a sum of Rs.1 lakh, which shall be paid by the Defendant No.2 to the Plaintiff within four weeks. In addition, the entire packaging material bearing the mark 'TATA', which has been seized by the Local Commissioner, shall be destroyed by the Defendant No.2 in the presence of the representative of the Plaintiff.
21. Decree sheet be drawn accordingly.
22. The decree sheet be drawn up in the above terms against both Defendant No.1 and Defendant no.2.
23. Suit and all pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

AUGUST 25, 2023/dk/kt