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

+ **CS(COMM) 294/2022 & I.A. 7028/2022, I.A. 3307/2023**

HAIR MASTERS SALON PRIVATE LIMITED Plaintiff

Through: Ms. Archana Sahadeva, Ms.
Anjuri Saxena and Mr. Sidharth Choudhary,
Advs.

versus

THE HAIR MASTERS HAIR AND BEAUTY LOUNGE & ORS.

..... Defendants

Through: Ms. Shweta Sahu, Mr. Parva
Khare and Mr. Brijesh Ujjainwal, Advs. for D-
6.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER (O R A L)

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20.02.2023

1. The plaintiff, by this suit, instituted under the Trade Marks Act, 1999, alleges infringement, by the defendant, of the mark HAIR

MASTERS and , by the use, by the defendants, of the

marks “THE HAIR MASTER’S” and “”.

2. The plaintiff is the owner of a chain of luxury salons which provides, *inter alia*, rejuvenating and beauty services. The plaintiff claims to have conceived and adopted the marks “HAIR MASTERS,



and in the year 2013-14. Since then, the plaintiff has been offering its services both offline and online. The plaintiff asserts that, over a period of time, the plaintiff has garnered a considerable reputation and is the chosen beauty destination of, *inter alia*, various Bollywood celebrities. Various other averments, underscoring the plaintiff's reputation and business, are contained in the plaint, to which it is not necessary to advert, as no written statement, contesting the claims, has been filed by the defendants.

3. The plaintiff possesses the following registrations under the Trade Marks Act.

S No.	Trade Mark	Class
1		44
2		44
3	HAIR MASTERS	41
4		41
5	HAIR MASTERS	35

6		35
7	HAIR MASTERS	5
8		5
9	HAIR MASTERS	3
10		3

The said registrations are stated to be valid and subsisting even as on date.

4. The plaintiff also possesses Copyright Registration No. A-



115635/2016 in respect of the mark.

5. The plaint also provides the annual turnover of the plaintiff which, in 2020-21 is ₹ 18,94,42,802. The plaint has also referred to expenditures incurred by the plaintiff towards advertisement and promotion of its goods and services which, in the year 2020-2021 was to the tune of ₹ 22,31,515.

6. The plaintiff is aggrieved by the use, by the defendants, of the



impugned marks “THE HAIR MASTER'S” and “”, as well as

the domain name www.thehairmasters.in, registered in favour of the defendants by Defendant 6 as the Domain Name Registrar. It is alleged that the impugned marks are deceptively similar to the registered trade marks of the plaintiff and, therefore, infringe the plaintiff's registered trade marks within the meaning of Section 29(2)(b)¹ of the Trade Marks Act.

7. While issuing summons in this case on 10th May 2022, this Court held that the plaintiff had made out a *prima case* in its favour and, in the circumstances, injuncted Defendants 1 to 5 from using the impugned



marks “HAIR MASTERS” or the mark as well as the impugned domain name www.thehairmasters.in till the next date of hearing.

8. Defendant 6, GoDaddy.com was also directed to block the domain name www.thehairmasters.in domain name within 72 hours.

9. GoDaddy.com has, in compliance, suspended the operation of the aforesaid domain name www.thehairmasters.in. Mr. Parv Khare, learned

¹ 29. Infringement of registered trade marks.—

(2) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which because of—

- (a) its identity with the registered trade mark and the similarity of the goods or services covered by such registered trade mark; or
- (b) its similarity to the registered trade mark and the identity or similarity of the goods or services covered by such registered trade mark; or
- (c) its identity with the registered trade mark and the identity of the goods or services covered by such registered trade mark,

is likely to cause confusion on the part of the public, or which is likely to have an association with the registered trade mark.

Counsel for GoDaddy.com submits that the authority of GoDaddy only extends to suspending and blocking the domain name and that outright blocking of the domain name could only be done by Internet Service Providers.

10. Ms. Sahadeva accedes to this submission however, she prays for an order directing Defendant 6 to transfer the aforesaid domain name to the plaintiff so that it is not misused. Defendant 6 has no objection to the grant of the said prayer, were it to be so directed by the Court. Ms. Sahadeva undertakes to provide, during the course of the day, the details of the account to which the aforesaid domain name would have to be transferred.

11. Despite notice, there has been no appearance on behalf of the Defendants 1 to 5. Nor has any written statement by way of response to the suit or reply to any of the applications be filed by said Defendants.

12. Defendants 1 to 5 were, therefore, proceeded *ex parte* on 31st January 2023.

13. The plaintiff has now moved IA 3307/2023 under Order VIII Rule 10 of the Code of Civil Procedure, 1908 praying that the suit be decreed in terms of the prayers contained therein, following earlier orders passed by this Court to the said effect, *inter alia*, in ***Disney Enterprises I.N.C. v. Balraj Muttneja²***, and ***Apnetime Tech (P) Ltd. v. TMP Technologies***

² 2014 SCC OnLine Del 781

*Pvt. Ltd.*³.

14. As there is no contest to the claims in the plaint, and given the fact of the case, a clear cut case of infringement of the plaintiff's registered trademarks by the defendant within the meaning of Section 29(2)(b) of the Trade Marks Act is made out, the plaintiff is entitled to grant of the prayers in the suit.

15. I am of the opinion that the facts of the present case would not require the plaintiff to file any affidavit in evidence and the Court can, in exercise of the jurisdiction vested in it by Order VIII Rule 10 of the CPC, proceed to straight away decree the suit.

16. The prayer clause in the plaint reads thus:

“69. The Plaintiff, therefore, prays that the following reliefs be granted in its favour:

a) A decree of permanent injunction restraining Defendants 1 to 5, their directors, proprietors, principal officers, assignees, family members and anyone acting for and on their behalf for using, providing services and selling, offering for sale, advertising or promoting the impugned trade mark/ trade name / domain name / social media handles etc. THE HAIR



MASTER'S/ ” or any other mark which is either identical to or deceptively similar to the Plaintiffs registered



trade mark HAIR MASTERS / causing infringement of the Plaintiff's registered trade mark in respect

³ 2022 SCC OnLine Del 2664

of any products or any products or services whatsoever as well as passing off in respect of any products / services whatsoever;

b) A decree of permanent injunction restraining Defendants 1 to 5, their directors, executives, partners, proprietors, principal officers, assignees, family members and anyone acting for and on their behalf from using, providing services and selling, offering for sale, advertising or promoting the Impugned Trade Mark under a trade dress/ label/ packaging/ logo viz,



, which is in violation of the Plaintiff's copyright in the artistic works in label / trade dress packaging / logo viz.



causing infringement of Copyright;

c) An order directing Defendant No. 6 to transfer the Impugned Domain Name viz. www.thehairmasters.in in favour of the Plaintiff herein;

d) For an order of Rendition of Account of profits / Decree of Damages to the tune of Rs. 2,00,00,000/- illegally earned by Defendants 1 to 5 by use of the trade mark/ trade name /trade dress / domain name / social media handles "THE HAIR



MASTER'S/ " or any other similar mark and a decree for the amount so found due be passed in favour of the Plaintiff. If this Hon'ble Court directs a Rendition of accounts, the Plaintiff undertakes to pay further court fees once the sum is ascertained on the Defendants rendering true and proper accounts;

e) An order of delivery up of all material relating to services provided under the Impugned trade mark/ trade name /trade dress / domain name, "THE HAIR MASTER'S /



"by the Defendants, namely packing, moulds, dyes, blocks, bottles, publicity materials, sign boards, stationery etc.

- f) Costs of the suit be awarded to the Plaintiff.
- g) Any other order this Hon'ble Court may deem fit and proper in the light of the above-mentioned facts."

17. Inasmuch as the defendants have not appeared, prayers (d) and (e) in the plaint do not survive for consideration.

18. There shall be a decree in terms of prayer (a) to (c) and (f) extracted herein above.

19. Insofar as the costs payable to the plaintiff are concerned, the plaintiff is permitted to file a certificate of costs incurred before the concerned Taxation Officer/Joint Registrar who would hear the plaintiff for the said purpose on 27th February 2023 to determine the actual costs incurred and award the same.

20. It is clarified that the costs would be payable only by Defendants 1 to 5.

21. The suit stands decreed in the aforesaid terms. Let a decree sheet be drawn up accordingly.

22. Order to be uploaded on the website of this court within 24 hours.

C.HARI SHANKAR, J

FEBRUARY 20, 2023/ ar

Click here to check corrigendum, if any