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O.S.A(CAD).Nos.146 and 149 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA ,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

O.S.A.(CAD).Nos.146 and 149 of 2023

APOLLO HOSPITALS ENTERPRISE LTD.

Having its Registered Office at

No.19, Bishop Gardens,

Raja Annamalaipuram,

Chennai - 600 028.

Rep. by its Authorised Signatory

S.M.Mohan Kumar - Manager Legal .. Appellant
(in both the appeals)

Versus

Bihar Burn and Trauma Research Centre Pvt. Ltd.

Having registered office at New Pataliputra Colony,

Patna 800 013, Bihar

Also having office at Kumhrar (Near Mazar),

Kankarbagh Road,

Patna - 800 020, Bihar,

Rep. by its Director. .. Respondent
(in both the appeals)

Prayer in O.S.A(CAD).No.146 of 2023 : Appeal filed under Order XXXVI
Rule 9 of the O.S. Rules read with Clause 15 of the amended Letters Patent
and read with Section 13 of the Commercial Courts, Commercial Division



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and Commercial Appellate Division of High Courts (Amendment) Act to set aside the common fair and decreetal order passed in A.No.2892 of 2023 in O.A.No.183 of 2023 in C.S.(Comm Div).No.54 of 2023, dated 07.09.2023 and allow the present appeal.

Prayer in O.S.A(CAD).No.149 of 2023 : Appeal filed under Order XXXVI Rule 9 of the O.S. Rules read with Clause 15 of the amended Letters Patent and read with Section 13 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act to set aside the common fair and decreetal order passed in A.No.2890 of 2023 in O.A.No.184 of 2023 in C.S.(Comm Div).No.54 of 2023, dated 07.09.2023 and allow the present appeal.

For Petitioner : Mr.P.S.Raman, Senior Counsel
(in both the appeals) Assisted by Mr.P.Giridharan,
and Mr.H.Siddarth

For Respondents : Mr.S.Rajesh Ramanathan,
(in both the appeals) for Factum Law

COMMON JUDGMENT

(Judgment of the Court is made by the Hon'ble Chief Justice)

Heard Mr.P.S.Raman, learned Senior Counsel assisted by Mr.P.Giridharan and Mr.H.Siddarth, learned Counsels for the appellant and Mr.S.Rajesh Ramanathan, learned Counsel for the respondent in both the appeals.



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2. The appellant filed O.A.Nos.183 and 184 of 2023 seeking to restrain the respondents from infringing its trademark and passing off. The interim applications were rejected.

3. During the course of the hearing, it was suggested that pending the suit, a modality can be adopted that would be beneficial for the parties. It is suggested that the respondent / original defendant shall publish in widely circulated newspaper the advertisement that the defendant has no concern with the plaintiff and that during the pendency of the suit, the defendant would not open a new Hospital with the same name.

4. The learned Counsel for the respondent / original defendant, on instructions, accedes to the same.

5. In view of the above, we pass the following order :-

(i) The respondent / defendant shall publish in two widely circulated newspapers that it is independent of the appellant / plaintiff and has no concern with the plaintiff;



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(ii) The defendant, during the pendency of the suit, shall not open a new Hospital with the same name as that of the plaintiff;

6. With these directions, these Original Side Appeals stand disposed of. There shall be no order as to costs. Consequently, C.M.P.Nos.25716, 25721, 25725, 25730, 25732 and 25734 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

22.01.2024

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

grs



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**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.**

grs

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