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

+ **CONT.CAS(C) 73/2020**

LIBERTY FOOTWEAR COMPANY

..... Petitioner

Through: Mr. Saif Khan & Mr. Shobhit
Agrawal, Advs.
M: 8800520258
Email: shobhit@anandandanand.com

versus

PRANAY SOMAIA

..... Respondent

Through: Mr. Sahil Sethi & Mr. Vikash Kumar,
Advs.
M: 7677423737
Email:
vikash@saikrishnaassociates.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
16.02.2024

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1. The present petition has been filed seeking action against the respondent for non-compliance of the judgment dated 21st May, 2019 passed in *CS(COMM) No. 522/2018*.
2. By the aforesaid judgment, statement of the respondent herein was recorded that he no longer wishes to use the name/mark 'REVOLUTIONS' in respect of clothing, fashion, accessories, etc. and thus, was willing to suffer an injunction qua the same.
3. Accordingly, a decree of permanent injunction was passed by way of the judgment dated 21st May, 2019 thereby restraining the respondent, its



promoter/directors/employees/distributors/shareholders, etc from selling, manufacturing or offering for sale any clothing/garments or accessories thereof under the name/mark 'REVOLUTIONS', including the use of the word 'REVOLUTIONS' as part of the trading style of the company.

4. Learned counsel appearing for the petitioner submits that the said decree was to come into force on 01st September, 2019, that is the day when the respondent ought to have applied for change of name with the Registrar of the Companies.

5. Since the needful was not done by the respondent, the present contempt petition came to be filed.

6. Per contra, learned counsel appearing for the respondent has drawn the attention of this Court to the two compliance affidavits filed on behalf of the respondent. The first compliance affidavit is dated 14th November, 2022, wherein it has been stated as follows:

“xxx xxx xxx

5. That in pursuance of the Judgment, I have stopped using the mark “REVOLUTIONS”. That my ex mother-in-law, Mrs. Aroona Sharma, who has no connection with M/s Revolution Clothings Pvt. Ltd. was also using the mark “REVOLUTIONS” under the trading name M/s Ashfash Lifestyle and I have apprised her of the Judgment and advised her to refrain from using the mark to avoid any dispute. I say that as per information shared with me, pursuant to my advise, M/s Ashfash Lifestyle has also changed their trademark from 'REVOLUTIONS' to the mark 'Therebelinme'.

6. That as per information received by me, Mrs. Aroona Sharma, proprietor M/s Ashfash Lifestyle, is now using the mark 'Therebelinme' in relation to clothing / garments, and has filed trademark applications for the mark 'Therebelinme' bearing no. 5440261 and 5440262 in class 16 and 25 respectively, and they are accepted and advertised. The record of trade mark applications for the mark 'Therebelinme' in class 16 and 25, as shared with me, are filed herewith.



7. I further state that the trademark application nos. 1166890, 1166894, 1166893, 1166891 in class 14, 16, 24, 25 respectively, for the mark "REVOLUTION WITH BREAKING THE SIZE BARRIER AND FASHION THAT MEASURES UP" / "REVOLUTION WITH BREAKING THE SIZE BARRIER" are abandoned. Further, the trademark application no. 1513415 in class 25 A is opposed by the Petitioner herein. I undertake not to prosecute the said application. I say no other application for registration of the mark 'REVOLUTION' has been filed by me or M/s Revolution Clothings Pvt. Ltd. The trademark information page of the trademark application nos. 1166890, 1166894, 1166893, 1166891 and 1513415 is filed herewith.

8. I state that currently there is no physical store under the brand 'REVOLUTION', which is run by me or M/s Revolution Clothings Pvt. Ltd. I further confirm that the physical store located at N-16, Greater Kailash- I, New Delhi is no longer using the mark 'REVOLUTION'.

9. I further state that as per my information, the domain name www.revolitiionplussize.com now directs to the domain name <https://www.therebelinine.in/>. I state that I am not the registrant of the domain name www.revolutionplussize.com.

10. That the company M/s. Revolution Clothings Private Limited is dormant and no business under the mark 'REVOLUTION' is conducted by it.

11. I state that as per information shared with me, Mrs. Aroona Sharma, proprietor M/s Ashfash Lifestyle has initiated the process of change of brand name on e-commerce websites.

xxx xxx xxx”

7. Subsequently, the second compliance affidavit dated 27th January, 2023 has been filed on behalf of respondent pursuant to directions by this Court vide order dated 15th November, 2022.

8. The Compliance affidavit dated 27th January, 2023 reads as under:

“xxx xxx xxx

4. That I have utmost respect for the rule of law and the orders of this Hon'ble Court. I have complied with the Judgment to the best of my abilities, and I undertake to continue to comply with the Judgment.



5. That this Hon'ble Court vide Order dated 15th November, 2022 ("Order"), had directed me/ the Respondent to:

(a) file an affidavit mentioning the details of the revenue realized as a result of use of the mark/name 'Revolutions' in respect of clothing, fashion, accessories, etc. during the period 21.05.2019 till 01.09.2019 and also for the period after 01.09.2019.; and

(b) place on record the steps taken to change the name of the concerned company, i.e., M/s Revolution Clothings Pvt. Ltd.

6. I state that no revenue was realized by the Respondent during the period 21.05.2019 till 01.09.2019 and also for the period after 01.09.2019 till date, due to use of the mark/name 'Revolutions' in respect of clothing, fashion, accessories, etc.

7. I also state that the company M/s. Revolution Clothings Private Limited is not in active business since around 2008. Therefore, no business has been carried out by it for more than 10 years. In terms of the directions of this Hon'ble Court, the company is in the process of getting the name changed, however, since the company has not been in active business, the process is taking more time.

xxx xxx xxx”

9. Perusal of the aforesaid shows that the respondent is no longer using the trade name 'REVOLUTIONS' and the company of the respondent has not been in active business since the year around 2008.

10. Per contra, learned counsel appearing for the petitioner submits that the respondent has still not changed the name of the company and is in contempt of the judgment dated 21st May, 2019.

11. To the aforesaid contention made by the learned counsel appearing for the petitioner, learned counsel appearing for the respondent submits that his company is facing proceedings for recovery of debt before the learned Debt Recovery Tribunal ("DRT")

12. He further undertakes that as soon as the proceedings before the



learned DRT are closed, the respondent shall take appropriate steps for the purposes of change of the name/mark of the company 'REVOLUTIONS'.

13. He further submits that the respondent is not interested in using the name/mark 'REVOLUTIONS' and that the respondent undertakes to change the name of the company to some other name. However, he submits that due to the pendency of the aforesaid proceedings before the learned DRT, due to technical objections, he was unable to take the requisite steps.

14. Considering the aforesaid, this Court is of the view that the respondent has substantially complied with the judgment dated 21st May, 2019 passed in *CS(COMM) No. 522/2018*.

15. However, considering the fact that the learned counsel for the petitioner has submitted that despite passing of the judgment dated 21st May, 2019, the usage of the name/mark 'REVOLUTIONS' continued, liberty is granted to the petitioner to establish the aforesaid fact and to seek appropriate remedies in accordance with law for the purposes of recovery of damages.

16. With the aforesaid directions, the present contempt petition is disposed of.

MINI PUSHKARNA, J

FEBRUARY 16, 2024/kr