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

+ **CS(COMM) 170/2021 & I.A. 5284/2021**

MAHANAGAR TELEPHONE NIGAM LIMITE (MTNL)

..... Plaintiff

Through: Mr. Sumit Chander, Mr. Gurdeep Chauhan, Ms. Mahak Dua and Mr. Anil Agarwal, Advocates with AR of the Petitioner.

versus

MTNL EMPLOYEES HOUSE WELFARE SOCIETY Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

05.03.2024

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1. This suit had been filed on behalf of the plaintiff/Mahanagar Telephone Nigam Limited (MTNL), Government of India undertaking engaged in providing telecom services in metropolitan cities of Delhi NCR and Mumbai.

2. The plaintiff has been using the trademark 'MTNL' for its services. The grievance was against certain ex-employees of the plaintiff who formed MTNL Employees House Welfare Society and registered it under the Societies Registration Act, 1860 on 23rd February 2007. The defendant has issued communication for providing dwelling to its members and restricted the membership only for Central/State Government and Public Sector Undertaking and Bank employees. The *ex-parte* ad interim injunction was granted by this Court on 13th April 2021 in the following terms:



“The plaintiff has made out a prima facie case. The mark/word MTNL is closely associated with the plaintiff. The usage of the same by the defendant tentamounts to passing off themselves as a society working under or with the plaintiff or in some way connected with the plaintiff. For the time being, the defendant, etc. are restricted from publishing or carrying out or soliciting any contract/work under the name of MTNL of any similar form thereof whatsoever.”

3. Initially the defendants were represented through counsel; however, no one has appeared on behalf of the defendant subsequently. The right of defendant to file written statements stood closed by order the Joint Registrar dated 20th July 2022.
4. *Vide* order dated 08th March 2022 parties were also referred to mediation, however, the said mediation was closed as being unsuccessful.
5. No one has appeared on behalf of defendants since July, 2022 till date. Accordingly, Mr. Sumit Chander, Counsel for the plaintiff prays for disposal of the suit in terms of Order VIII Rule 10 Code of Civil Procedure, 1908 (“**CPC**”).
6. It was claimed that on 20th March 2019, defendant approached the employees of plaintiff to lure them by taking membership of its organisation and purchasing flats. By using the trademark ‘MTNL’ of the plaintiff, the impression was created that it was a housing society sanctioned by the plaintiff, which was not so.
7. A cease-and-desist notice was served on 06th May 2019 on the defendants; however, the defendant did not comply with it. Another notice was sent on 22nd May 2019 asking the defendants to issue a public notice. A



reply dated 22nd May 2019 was received to the prior cease-and-desist notice; the defendant claimed to be using ‘MTNL’ as an abbreviation of “*Maa Tere Nanhe Lal*”. However, nowhere in the brochures of the said society as also the website was this full form ever present or visible. A third cease-and-desist notice was sent to the defendant on 12th June 2019. *Vide* reply dated 03rd August 2019 the defendant stated that they had issued a public notice in Hindustan Times to the effect that plaintiff was not connected with defendant’s society. However, the copy of the same was never provided. Yet another legal notice, dated 14th August 2020, was sent to which there was no response.

8. Application for Pre-Litigation Mediation as per Section 12A of the Commercial Courts Act was also filed by plaintiff but defendant failed to appear and consequently the present suit was filed.

9. The Court had the occasion to peruse the documents on record and in the opinion of the Court, the plaintiff would be entitled to a decree in their favour.

10. Accordingly, decree may be passed in favour of the plaintiff for permanent injunction against the defendant from use of the plaintiff’s trademarks/ trade dress MTNL in any form whatsoever including as part of the housing society, promotional material in online or physical medium, and in any other form or manner whatsoever.

11. Decree sheet be drawn up accordingly.

12. Mr. Chander raises an issue relating to the word ‘MTNL’ used as part of their registered society i.e. MTNL Employees House Welfare Society. They will be at liberty to take steps for appropriate proceedings in that regard.



13. Regards the prayer for costs and damages, in these circumstances, considering that the society was floated by former employees of the MTNL, however, their explanation for using the word MTNL was needless to state unacceptable, costs and nominal damages of Rs. 2.5 Lakhs are awarded in favour of the plaintiff.

14. Accordingly, the suit is disposed of.

15. Pending applications, if any, are become infructuous.

ANISH DAYAL, J

MARCH 5, 2024/MR/ig