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

+ **CS(COMM) 517/2024 & I.A. 31610/2024**

DOMINOS IP HOLDER LLC & ANR.

.....Plaintiffs

Through: Ms. Imon Roy, Advocate
(M:9798483681)

versus

M/S MG FOODS & ANR.

.....Defendants

Through: Mr. Rajput and Ms. Nishi Ranjan,
Advocates

Email: rahul@chambersoflaw.co.in

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

23.10.2024

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1. The present suit has been filed seeking decree of permanent injunction restraining defendant no.1 and all those acting for and on their behalf, from promoting, selling, marketing, packaging any product or material using, depicting and displaying in any manner in the marks “DONITO’s”,



or any other mark which is identical or deceptively similar to the plaintiffs’ registered trademarks.

2. As per the plaintiffs, the plaintiffs are the first and prior adopter of the mark “DOMINO’s” since the year 1965. Thus, it is submitted that on account of their extensive and continuous use, the plaintiffs’ trademark has acquired immense goodwill and reputation.

3. Accordingly, it is submitted that the plaintiffs have exclusive rights to use as well as restrain the use of the trademarks, including “DOMINO’s”



and “DOMINO’s PIZZA”, which are registered in favour of the plaintiffs.

4. The present suit has been filed by the plaintiffs being aggrieved by the action of defendant no.1, using a phonetically and visually deceptively

similar mark, i.e., ‘DONITO’S’



for selling

identical goods *inter alia* Pizzas and Burgers.

5. Today, learned counsel for the defendants submits that defendants have already stopped user of the impugned marks. He further submits that application for registration of their impugned marks under Application no. 5208690 under Class 30, shall be deemed to be abandoned, as the defendants have not filed any counter claim to the opposition proceedings, initiated by the plaintiffs herein.

6. Learned counsel appearing for the defendants further undertakes that they shall not use the mark ‘DONITO’S’ or the device mark



or the trade dress, or any other deceptively

similar mark or trade dress which would infringe the registered trade mark/ trade dress of the plaintiffs.

7. Learned counsel for the plaintiffs expresses satisfaction over the undertaking given by the defendants. However, she submits that since the plaintiffs are accepting the undertaking of the defendants, she submits that court fees may be refunded.

8. Accordingly, in view of the undertaking made by the defendants, the suit is decreed in favour of the plaintiffs and against the defendants, in terms of Para 50 (a) to (c) and (h) of the plaint.



9. The defendants are directed to bring down various listings of their products with the infringing mark, forthwith.
10. Considering the facts and circumstances of the case and considering the fact that the suit is at its nascent stage and today, being only the fourth date before this Court, this Court is of the view that the court fees ought to be refunded in favour of the plaintiffs.
11. Accordingly, the Registry is directed to issue a certificate for refund of full court fees, in favour of the plaintiffs.
12. Decree sheet be drawn up accordingly.
13. The present suit, along with pending application, stands disposed of.
14. The next date of hearing before JR (Judicial) i.e. 18th November, 2024 stands cancelled.

MINI PUSHKARNA, J

OCTOBER 23, 2024

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