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

+ CS(COMM) 651/2024 & I.A. Nos. 35533/2024, 35534/2024,
35535/2024, 35536/2024, 35537/2024 & 35538/2024

RUPA GUJRAL & ORS.Plaintiffs

Through: Mr. Anirudh Bhatia with Ms. Shreya
Sethi, Advocates.
(M): 9818666566
Email: shreyasethi093@gmail.com

versus

G. K. REGENCY & ANR.Defendants

Through: Mr. Cyril Ignatious, Advocate.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
11.12.2024

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1. The present suit has been filed for infringement and passing off of the registered trademarks, copyrights, unfair trade practices and damages, seeking *inter alia*, permanent and mandatory injunction, delivery up, rendition of accounts.

2. Case as canvassed on behalf of the plaintiffs, is as follows:

2.1 The plaintiffs, collectively and individually, are the owners of the famous trademarks 'MOTI MAHAL' and 'MOTI MAHAL' formative

marks, including, the oval devices



and/or



which are



used in relation to high quality and famous restaurants operating throughout the country and around the globe.

2.2. The plaintiffs are the registered proprietors and lawful owners of the coined, highly distinctive and unique trademarks ‘MOTI MAHAL’ and ‘MOTI MAHAL’ formative marks in India, as well as many jurisdictions of the world.

2.3 The present suit relates to the misuse by the defendants of adopting and using the marks ‘MOTI MAHAL’ and/or ‘MOTI MAHAL DELUX’ and/or



or , which are identical to the plaintiffs’ earlier, well-known and registered trademarks “MOTI MAHAL”, “MOTI MAHAL GROUP”, “MOTI MAHAL MANAGEMENT SERVICES” and “MOTI MAHAL” formative marks and



the oval devices

2.4 It is the case of the plaintiffs that the defendants have slavishly copied with dishonest intention, the plaintiffs’ earlier, well-known registered trademark MOTI MAHAL *ad verbatim*, and are using the same with respect to identical goods and services, i.e. restaurant and catering services, thereby satisfying the triple identity test.



2.5 It is the case of the plaintiffs that defendant no. 1 is using the impugned marks in a prominent manner, in a very big font, bigger than the font in which the remaining contents, including the font of their entity 'G.K. Regency/ G.K. Hotel' is written, such that the attention immediately goes to the impugned marks. Thus, the defendants have made a conscious effort to bring focus and attention to the words "MOTI MAHAL" and the



device even while being used alongside other brands launching at the said premises. Thus, the present suit came to be filed.

3. When the present matter was listed for hearing on 16th October, 2024, statement was made on behalf of learned counsel for the defendants that the defendant no. 1 shall not use the impugned mark. The order dated 16th October, 2024, reads as under:-

- “1. The pre-litigation mediation has failed.
2. Learned counsel appearing for the defendants submits that defendant no. 1 shall not use the impugned mark.
3. Accordingly, if that be the case, let an affidavit be filed on behalf of the defendants, in this regard.
4. Let the needful be done within a period of two weeks.
5. Re-notify on 18th November, 2024.”

4. Pursuant to the aforesaid, an affidavit dated 05th December, 2024, has been filed on behalf of defendant no. 1, which reads as under:-

“xxx xxx xxx

A. That the defendant no. 1 is not advertising, selling, offering for sale, marketing, promoting any restaurant and catering business or in any other manner whatsoever, using the Mark 'MOTI MAHAL'.

B. That the defendant no. 1 does not have in his power, and possession any promotional material, catalogues, stationary, labels, signs, prints, packages, plates, dies, wrappers, advertisements and any other



material whatsoever bearing the impugned mark 'MOTI MAHAL'.

C. That the defendant no. 1 has removed the listings and references of the Mark 'MOTI MAHAL' from its website and from all social media pages, facebook, Instagram and other social media and advertising platforms etc."

5. Learned counsel appearing for the plaintiffs submits that the plaintiffs are satisfied with the undertaking given by the defendants. He further submits that the defendants shall not use the mark of the plaintiffs even in future.
6. Learned counsel appearing for the defendants submits that in view of the undertaking given before this Court, the defendants have no objection if the suit is decreed in favour of the plaintiffs.
7. Learned counsel appearing for the plaintiffs submits that the plaintiffs give up their prayer for cost and damages.
8. Accordingly, in view of the submissions made before this Court, the suit is decreed in favour of the plaintiffs and against the defendants in terms of Paragraph 128 (a) (i) (ii) (iii) and c (vii) of the plaint.
9. Let decree sheet be drawn up.
10. Accordingly, the present suit along with the pending applications, stands disposed of.

MINI PUSHKARNA, J

DECEMBER 11, 2024

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