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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 683/2019 & I.A. 17608/2019**
HELPAGE INDIA Plaintiff
Through: Ms. Imon Roy and Mr. Shantanu Sahay, Advocates.
versus
HELPAGE ODIA & ORS. Defendants
Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
04.03.2024

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1. The Plaintiff/ 'HelpAge India', a registered society, was set up in 1978 as a charitable organization working primarily for the cause and care of the disadvantaged elderly. Plaintiff is the owner of the trademark



'HELPAGE INDIA'/ 'HelpAge India', which is registered in Classes 16, 35, 36, 41, 42, 44 and 45, with the earliest registration being under Class 16 in the year 1998.

2. Plaintiff's grievance as urged in the present suit arises with respect to

Helpage Odia

Defendant No. 1 using the mark 'HELPAGE ODIA'/ 'Helpage Odia', [“*Impugned Mark*”]. As per the Plaintiff's information, Defendant No. 1 was set up in 2018 and is believed to be a non-profit organization with Ms. Manaswini Sahu as its proprietor and Mr. Rabindra Sahu/ Defendant No. 2 as its Managing Director.

3. By way of order dated 6th February, 2024, Defendants No. 3 & 4 have



been deleted from the array of the parties. As regards the Defendants No. 1 and 2 [*hereinafter*, “**Defendants**”], there has been no appearance despite service of summons. The time period for filing a written statement, as well as the overall condonable limit for doing so, stands expired. Accordingly, through order dated 5th July, 2023, their right to file written statement has been closed. In such circumstances, Ms. Imon Roy, counsel for the Plaintiff, prays for a summary decree under Order VIII Rule 10 read with Order XIII-A of the Code of Civil Procedure, 1908 (CPC).

4. In the opinion of the Court, since the Defendants have chosen not to participate in the present proceedings or file any defence on their behalf, there is no reason to direct the Plaintiff to lead any further evidence. Accordingly, the Court has proceeded to adjudicate the instant suit on the basis of the documents on record.

5. The trademark certificates placed on record sufficiently prove the Plaintiff’s ownership over the trademark ‘HELPAge INDIA’/



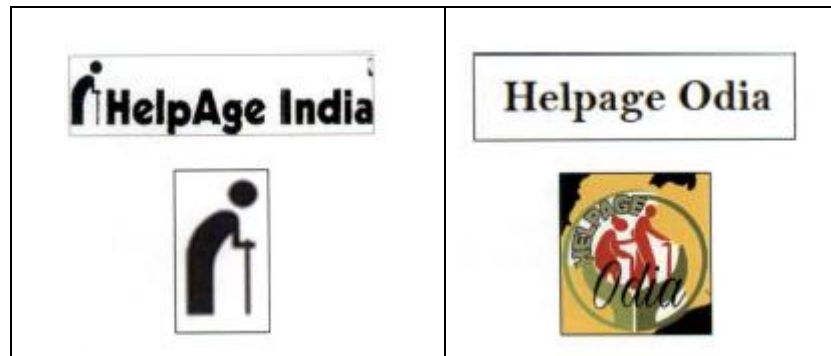
‘**HelpAge India**’. A comprehensive list of the Plaintiff’s trademark registrations, supported with proof of such registrations, has been filed along with the plaint. Details of registration of some of the Plaintiff’s trademarks are reproduced as under:



Sl. No	Mark	Application No. / Status	Date of Application	Class	Status
1.	 HelpAge India	800622	30 April 1998	16	Registered
2.	 HelpAge India	1265036	05 February 2004	42	Registered
3.	 HelpAge India	2392159	07 September 2012	35	Registered
	 HelpAge India	2392159	07 September 2012	36	Registered
	 HelpAge India	2392159	07 September 2012	44	Registered
	 HelpAge India	2392159	07 September 2012	45	Registered

6. The Defendants' Impugned Mark and trade name 'HELPAge ODIA', when compared to the Plaintiff's mark, appears to be deceptively similar to the Plaintiff's trademarks. Although the Plaintiff's registrations are in respect of device marks, the prominent feature of the Plaintiff's mark, i.e., 'HELPAge', which Plaintiff claims to be a coined word, is being entirely utilized by the Defendants in the Impugned Mark. 'ODIA' is a reference to the State of Odisha, to which the Plaintiff has no grievance. However, the conjunction of 'ODIA' with the word 'HELPAge', when compared with the Plaintiff's trademark 'HELPAge INDIA', is found to be deceptively similar. A side-by-side comparison of the competing marks is set out as under:

<i>Plaintiff's Trademark</i>	<i>Defendant's Tradename/ Logo</i>
HELP AGE INDIA	HELPAge ODIA



7. Ms. Roy also draws attention to the mark ‘’, referred to as the ‘Bent Old Man’ figure, to contend that the Defendants’ figure in their logo is deceptively similar to the Plaintiff’s, as illustrated in the above comparison. The Court is not convinced on this point, as the two figures appear to be distinct. However, the use of the said figures in the logos has to be compared by taking the entire composite mark into considerations. Accordingly, since the Defendants’ logo also utilises the Plaintiff’s trademark ‘HELPAGE’ in conjunction with the ‘Bent Old Man’ figure, Defendants’ composite mark/logo is found to be offending the Plaintiff’s trademark.

8. In their pleadings, the Plaintiff has set out the details of various charitable activities conducted in relation to their trademark. Further, they have also delineated details of grants/ donations received by the Plaintiff. Accordingly, the Plaintiff has sufficiently established their existing reputation and goodwill in the trademark.

9. In light of the above, the Court is of the opinion that the Defendant’s adoption of the deceptively similar mark, which contains the essential and distinctive element ‘HELPAGE’ as well as the visual representation referred above, constitutes infringement of Plaintiff’s trademark rights. The



Defendants' adoption was in the year 2018, whereas the Plaintiff has established their prior use of the trademark 'HELPAGE INDIA' dating back to the year 1978. Therefore, since the competing marks are used in respect of identical services, the Defendants' adoption of the Impugned Mark appears to be dishonest and has the potential to cause confusion on the part of the public and create an impression of association with the Plaintiff's registered trademarks, thereby tarnishing their goodwill and reputation.

10. At this juncture, Ms. Roy has also informed the Court that subsequent to the filing of the suit, the Defendants have abandoned their trademark



application No. 3829289 for the device mark ' '. Thus, the prayer contained in Paragraph No. 48(i) is rendered infructuous. Further, the Defendants have also shut down their website under domain name <http://helpageodisha.org/>, which substantially deals with the prayer sought at Paragraphs No. 48 (e) and (f). Ms. Roy has also stated that the prayers other than those seeking injunctive relief are not being pressed.

11. In view of the above, the suit is decreed in favour of the Plaintiff and against the Defendants in terms of Paragraphs No. 48 (a) to (d).

12. Decree sheet be drawn up.

13. The present suit, along with pending applications, is disposed of.

SANJEEV NARULA, J

MARCH 4, 2024/as