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

+ **CS(COMM) 758/2018 & I.A. 1130/2020, I.A. 656/2023**

ZIPPO MANUFACTURING COMPANY

.....Plaintiff

Through: Mr. Pravin Anand, Ms. Prachi
Agarwal, Ms. Elisha Sinha, Mr.
Manan Mondal, Advocates
(M:8016736300)

versus

RAJA BHAI TRADERS & ANR

.....Defendants

Through: Mr. C.P. Sharma, Advocate for D-1
Mr. Bhuvneshwar Tyagi, Advocate
for D-3

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

12.11.2024

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1. The present suit has been filed seeking permanent injunction restraining the defendants from infringing the plaintiff's registered

trademark/ trade dress  .

2. It is the case of the plaintiff that defendants are counterfeiting the mark of the plaintiff, along with 3-dimensional shape of the 'ZIPPO' lighters.

3. This Court notes that vide order dated 03rd October, 2018, statements on behalf of defendant nos. 1 and 2 had been recorded, in the following manner:

"1. Learned counsels for the defendants No. 1 and 2 submit that they have received instructions from the respective defendants that both the defendants have no objection to the decree being passed in respect of prayers 46(i) to (vii). With respect to prayer 46(viii) and (ix), it is submitted that both the defendants are small shopkeepers and they are willing to pay a nominal cost of Rs. 10,000/- each.

xxx xxx xxx"



4. This Court further notes that vide order dated 03rd October, 2018, this Court has already declared the plaintiff's trademark and logo 'ZIPPO'  including the 3-dimensional shape of the 'ZIPPO' lighters, as well-known trademark.

5. It is also noted that vide order dated 17th September, 2024, the defendant no. 2 was proceeded *ex-parte*.

6. When the present matter was listed for hearing on 17th September, 2024, this Court had noted as follows:

"1. Learned counsel appearing for defendant no.1 submits that the defendant no.1 is ready to suffer a decree of permanent injunction. He further submits that defendant no.1 has already closed his shop, which he was running with the name RAJA BHAI. He submits that defendant no.1 is now working in some other shop, and is no more running his own shop after the COVID-19 lock-down.

2. Learned counsel appearing for defendant no.3 also submits that he is ready to suffer a decree of permanent injunction.

xxx xxx xxx"

7. Learned counsel for the plaintiff submits that in terms of the order dated 03rd October, 2018, nominal cost of ₹10,000/- is payable by defendant nos. 1 and 2. He further submits that *qua* defendant no.3, plaintiff gives up its prayer for any costs/damages.

8. Mr. C.P. Sharma, learned counsel for defendant no.1 submits that defendant no.1 is ready to pay the cost of ₹10,000/-, as recorded in the order dated 03rd October, 2018.

9. Mr. Bhuvneshwar Tyagi, learned counsel for defendant no. 3 submits that defendant no.3 is also ready to suffer decree, as recorded in the previous order sheets.

10. Considering the submissions made before this Court, the following directions are issued:



10.1 The suit is decreed in favour of the plaintiff and against the defendants in terms of Prayer 'i', 'ii', 'iii' and 'iv' of Paragraph-46 of the plaint.

10.2 Defendant nos. 1 and 2 shall pay cost of ₹10,000/- to the plaintiff, to be paid through the plaintiff's counsel.

11. Decree Sheet be drawn up.

12. Considering the fact that the suit has been settled between the parties, the Registry of this Court is directed to issue a certificate for refund of Court Fee to the extent of 50%, to the plaintiff, through plaintiff's counsel.

13. With the aforesaid directions, the present suit, along with pending application, stands disposed of.

MINI PUSHKARNA, J

NOVEMBER 12, 2024

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