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

+ **CS(COMM) 132/2019**

M/S. M.L. BROTHERS LLP

.....Plaintiff

Through: Mr. Umesh Mishra, Adv.

versus

UMA IMPACT PRIVATE LIMITED & ANR

.....Defendants

Through: Mr. Natraj and Mr. Rahul Bhujbal,
Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

17.01.2025

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1. In the present case, *ex-parte ad interim* injunction order was passed by this Court in favour of the plaintiff on 12th March, 2019. The aforesaid order was taken up in appeal by the defendants in FAO (OS) COMM 68/2019. A detailed judgment was passed in the said appeal on 3rd April, 2019. The operative paragraphs 12, 13 and 14 of the said judgment are set out below:

“12. If there are other products in respect whereof the trade dress of the defendant is similar to that adopted by the plaintiff, it is for the plaintiff to produce the same before the Court, and after the Court has examined the position and if the Court is so satisfied, it may grant injunction in respect of the particular trade dress. However, in our view, there cannot be an omnibus injunction in respect of all products manufactured by the defendant, which have not even been examined by the Court.

13. So far as the use of the expression "BORN TO WIN" by the defendant/



appellant is concerned along with its device mark, since the plaintiff has not applied or obtained registration of the word mark "BORN TO BE FREE" separately, and it forms part of the plaintiff's device mark, in our prima facie view, the grievance of the appellant is justified that there could not be an injunction against use of the expression "BORN TO WIN" by the defendants as a part of its device mark.

14. We, therefore, limit the injunction granted by the learned Single Judge in respect of the trade dress of the three products which were produced by the plaintiff, along with the plaint, and which the learned Single Judge found to bear the similar trade dress. However, we leave it open to the plaintiff to seek further injunction in respect of any other products manufactured by both the parties, in respect whereof the plaintiff claims that the trade dress is similar."

2. Mr. Natraj, counsel appearing on behalf of the defendants submits that a decree may be passed in terms of the aforesaid findings of the Division Bench, which may be confined to three products of the plaintiff described in paragraph 24 of the plaint.
3. Accordingly, a decree of permanent injunction is passed in favour of the plaintiff and against the defendants in respect of the three products mentioned in paragraph 24 of the plaint in terms of prayer clauses 35 (a) and 35 (b) of the plaint.
4. Counsel for the plaintiff does not press for the remaining reliefs.
5. Decree sheet be drawn up accordingly.

AMIT BANSAL, J

JANUARY 17, 2025

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