

CS (COMM) No.2081/22
Suprajit Engineering Limited
Vs.
Ashok Kumar & Ors.

26.07.2023

Present: Sh. Deeksha Yadav, Proxy counsel for the plaintiff.
Ms. Geeta Dangi, Proxy counsel for defendant No.1.
Sh. V.K. Yadav, counsel for defendant No.2.
Sh. Ashok Kumar Roy, counsel for Defendant No.3.
(Vakalatnama filed.)

Written statement not filed on behalf of defendant no.3 till date. As per record, defendant no.3 was served on 27.02.2023. Since defendant no.3 has failed to file written statement despite expiry of 120 days from the date of service, opportunity of defendant no.3 to file written statement stands closed.

Replication to written statement of defendant no.2 filed alongwith affidavit of admission/denial of documents of defendant no.2. Copies supplied.

Declaration on Oath by way of affidavit U/o XI Rule 6 CPC alongwith certificate u/s 65B filed on behalf of defendant no.2 on 19.05.2023 has been put up today. Be taken on record.

Parties/AR for parties are not present for admission/denial, however, since affidavit of admission/denial of documents are already on record, it is deemed appropriate to proceed further with the matter.

Pleadings are complete. From the pleadings of the parties, following issues are framed :-

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- 1) *Whether defendant no.1 is engaged in manufacture of genuine products of its own? (OPD1)*
- 2) *Whether the goods mentioned in inventory prepared by Local Commissioner were recovered from one Mohit Singh? (OPD1)*
- 3) *Whether defendant no.2 was working as a labour rate free lance worker and is not running any independent business of his own? (OPD2)*
- 4) *Whether the plaintiff is entitled to decree for permanent injunction as prayed for in prayer clause 37(a)(i) to (iii) and (b) of the plaint? (OPP)*
- 5) *Whether the plaintiff is entitled to delivery up of all the impugned finished and unfinished materials bearing the impugned trade mark as prayed for in prayer clause 37(c) of the plaint? (OPP)*
- 6) *Whether the plaintiff is entitled to decree for damages or rendition of accounts of profits earned by the defendant by infringing its logo/trademark, as prayed for in prayer clause (d), (e) & (f) of the plaint? (OPP)*
- 7) *Who is entitled to the costs, against whom and in what quantum? Onus on parties.*
- 8) *Relief.*

No other issue arises or pressed for.

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Both parties are directed to file their list of witnesses within 15 days. Plaintiff shall file examination-in-chief of its witnesses in Court at least one week before the date so fixed and shall also supply copy thereof to the other party at least one week before the date fixed for evidence. Proof of supply of copy be also filed.

Be listed for PE on 13.09.2023. Case management hearing shall be taken up on the next date.

(Illa Rawat)
District Judge (Commercial Court-03)
Central/ THC/ Delhi.
26.07.2023