

**CNR No: WBSP01-000057-2018**

Present: Subhra Som Ghosal

J.O Code: WB00984

**Title Suit No: 02 of 2018**

**Order No. 31, dated: 13-03-2024.**

The petitioner namely TATA Consumer Private Ltd. who has filed a petition praying for adding it as a party to this suit is present by filing hazira.

None appears and none moves for the defendant.

On call Ld. Advocate for the petition is found to be present.

It is now 11:45 AM and on repeated calls none appears, and none moves for the defendant.

In this case two petitions filed by the petitioner are pending for adjudication.

By filling one petition the petitioner has sought to invoke Order 22 rule 10 read with Section 151 of the Code of Civil Procedure, 1908. Through the other petition the petitioner has prayer for amendment of the plaint.

Considering the laggardness shown by the defendants I am inclined to take up the petition under Order 22 rule 10 read with Section 151 of the Code of Civil Procedure, 1908 for consideration even in the absence of the defendant.

Heard Ld. Advocate for the petitioner.

On perusal of the case record it has transpired that DHUNSERI TEA & INDUSTRIES LIMITED being the plaintiff instituted this suit praying for declaration and injunction under Section 134 of the Trade Marks Act 1999 read with Section 29 of the said Act and Section 62 of the Copyright Act, 1957, before the Learned District Judge at Alipore. Thereafter the present suit was transferred by the Learned District Judge to this Court for further hearing and disposal. The suit was renumbered as Title Suit No. 02 of 2018. In the meantime, the plaintiff and the present petitioner entered into a Business Transfer Agreement dated 01<sup>st</sup> August, 2019, wherein the petitioner being the Assignee therein purchased and the plaintiff being the Assignor therein sold its business, including the plaintiff's Intellectual Property, on the terms and conditions as mentioned in the in the Business Transfer

Agreement. A copy of the Business Transfer Agreement dated 01<sup>st</sup> August 2019 has been filed by the petitioner. Subsequent to and in terms of the Business Transfer Agreement, the Plaintiff by Intellectual Property Assignment Agreement executed on 20 August 2019 assigned its Intellectual Property rights, inter-alia, all "LAL GHODA/GHORA" and "KALA GHODA/GHORA" trademarks, in favour of Tata Consumer Products Limited [Formerly known as Tata Global Beverages Limited] i.e. the present petitioner.

These basic facts has not been refuted and rebutted.

In such facts and circumstances I find no impediment in allowing the prayer of the petitioner under Order 22 rule 10 of the Code of Civil Procedure, 1908.

Hence the prayer of the petition is allowed.

The petitioner be added in this suit as the plaintiff in place of the present plaintiff namely DHUNSERI TEA & INDUSTRIES LIMITED.

The petition for hearing will be taken up for hearin on the next date.

Fix 07-08-2024 for hearing of the petition praying for amendments.

A copy of this order in PDF/PDFA format be uploaded to the server following the modalities of Rule 121A of the Civil Rules and Order of the Hon'ble High Court [since amended by Notification No. 131-G dated 15-01-2015].

Typed to the dictation directly;

corrected on the system.

Sd/-Subhra Som Ghosal  
Additional District and Sessions Judge,  
01<sup>st</sup> Court, Alipore, South 24 parganas.

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Additional District and Sessions Judge,  
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