



2026:DHC:154

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

+ **CS(COMM) 361/2018, I.A. 4575/2005 & I.A. 16151/2023**

NADEEM MAJID OOMERBHOY Plaintiff

Through: Mr. Tahir Ashraf Siddiqui, Adv.

versus

SH. GAUTAM TANK AND ORS Defendants

Through: Mr. Arnav Goyal, Adv. for D-1 & 2.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **24.04.2024**

I.A. 16151/2023

1. This application has been filed under Order XXII Rule 4 of the Code of Civil Procedure, 1908 (“CPC”) to bring on record legal representatives of defendant No.7, who passed away on 30th April, 2006.
2. In view of the facts and circumstances stated in the application, the application is allowed and the plaintiff is directed to file the amended memo of parties.
3. Application is accordingly disposed of.

CS(COMM) 361/2018 alongwith I.A. 4575/2005

1. It is pointed out by the counsel for the plaintiff that evidence in this suit has already been led. However, since the defendants’ trademark was registered after 19 years on 13th February, 2023, during the pendency of the



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suit, the issue of validity of the defendants' mark was raised by the plaintiff in I.A. 15906/2023 filed under Section 124(1)(b) of the Trade Marks Act, 1999.

2. Subsequently, however, it is noted that the said application has been dismissed and the Predecessor Bench of this Court passed a judgment on 11th September, 2023 after assessing the situation relating to validity taken by the plaintiff against the defendants for the registered mark. It was directed on 11th September, 2023 that both sides will be heard on the aspect of the validity of the registration of the defendants' "SUPER POSTMAN" trademark and both parties are directed to place on record their notes of submissions. While the plaintiff has filed their submissions in this regard, the defendants have not.

3. It is noticed that despite many subsequent dates post the judgment on 11th September, 2023, the defendants have not filed their submissions. Even on the last date, that is, on 08th February, 2024, two weeks' time had been sought to file written submissions. On this account, their right to file written submissions now stands closed. These directions are being made considering the long pendency of the suit since 2005 as also the directions passed by the Hon'ble Supreme Court for expeditious disposal. The only reason that the suit is now pending was because of the intervening circumstances of the registration of the defendants' mark in 2023. There is no reason for the defendant not to follow the directions of the Court and not file their submissions despite the matter having been listed post the judgment of 11th September, 2023 on 31st October, 2023, 09th November, 2023, 24th November, 2023, 15th December, 2023 and 08th February, 2024.

4. The defendants will have the right to argue on the issue of validity basis the documents on record.



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5. Today, an adjournment is sought on the ground that the main arguing counsel is in personal difficulty.
6. It is made clear that no further adjournment will be granted.
7. List on 26th July, 2024.
8. Order be uploaded on the website of this Court.

ANISH DAYAL, J

APRIL 24, 2024/MK