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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 698/2016 & IA No.7195/2016 (u/O XXXIX R-1&2**
CPC)
SANJEEV GOYAL Plaintiff

Through: Mr. Manish Singhal, Adv.

Versus

METRO IRRIGATION PRIVATE LIMITED Defendant

Through: Mr. Dharmendra Tyagi, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **03.03.2017**

1. The counsel for the plaintiff states that he had received a call from Mr. Harendera Chaudhary, Advocate for the defendant informing that he is unwell.
2. None appears for the defendant.
3. The suit is listed for framing of issues and for hearing of the application for interim relief.
4. I am of the view that absence of the counsel for defendant should not come in the way of this Court framing the issues so that the recording of evidence can commence.
5. The replication of the plaintiff, though lying under objection for the reason of being filed late, has been requisitioned.
6. On perusal of the pleadings, the following issues are framed:
 - (i) Whether the plaintiff is the proprietor / registered proprietor of the trade mark / label 'METRO GOLDCOIN' under registration Nos.819934, 819935, 1383784 & 1383785? OPP



- (ii) Whether the plaintiff is using the trade mark / label 'METRO GOLDCOIN'? OPP
 - (iii) Whether the registration even if in favour of the plaintiff of the trade mark / label 'METRO GOLDCOIN' does not vest the plaintiff with the exclusive right to use the trade mark / device 'GOLD COIN' or 'METRO'? OPD
 - (iv) Whether the adoption by the defendant of the word 'METRO' as its company name violates the rights if any of the plaintiff and, if so, to what effect? OPP
 - (v) Whether the plaintiff is not entitled to the relief claimed for the reason of the word 'METRO' being not distinctive? OPD
 - (vi) Whether there are others using the word 'METRO' as a trade mark and if so, what is the effect thereof on the reliefs claimed by the plaintiff? OPD
 - (vii) Whether this Court has territorial jurisdiction to try the suit? OPP
 - (viii) Whether the defendant by using the trade mark 'METRO' is passing off its goods as that of the plaintiff and if so, to what effect? OPP
 - (ix) If the above issues are decided in favour of the plaintiff, whether the plaintiff is entitled to any damages / compensation from the defendant and if so, to what amount? OPP
 - (x) Relief.
7. No other issue arises or is pressed.
8. Parties to file their list of witnesses within 15 days.



9. The plaintiff to file affidavits by way of examination-in-chief of all his witnesses within eight weeks.
10. Option of having the evidence recorded before a Court Commissioner has been declined by the counsel for the plaintiff.
11. List before the Joint Registrar on 4th May, 2017 for fixing the dates of trial.
12. At this stage, the counsel for the defendant appears.
13. List on 22nd August, 2017 for hearing on the application for interim relief.

RAJIV SAHAI ENDLAW, J

MARCH 03, 2017

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