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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 865/2016 & IA No.8415/2016 (u/O XXXIX Rules 1&2 CPC).**

**MILLENNIUM & COPTHRONE INTERNATIONAL
LIMITED**

..... Plaintiff

Through: Mr. Rajshekhar Rao, Mr. J.V. Abhay,
Ms. Rosalyn Malik and Ms. Kruttika
Vijay, Advs.

versus

VALLIYIL KUNHIMON MOHAMED & ANR Defendants

Through: Mr. Shikhar Saha and Mr. Karun
Pahwa, Advs. for D-1&2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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04.04.2018

1. The counsel for the defendants states that Mr. Arunav Patnaik, Advocate had to suddenly go out of station on account of bereavement and seeks adjournment.
2. The counsel for the plaintiff states that the plaintiff is without any interim injunction.
3. The counsel for the plaintiff on enquiry has handed over proposed issues.
4. Though the counsel appearing for the defendants is raw but I have perused the issues proposed by the plaintiff and being of the opinion that at least issues should be framed in the suit so that the trial is set in motion, it is not deemed appropriate to defer framing of issues.



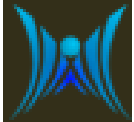
5. The following issues are framed in the suit:-

(i) Whether the Plaintiff is the registered proprietor of the trade

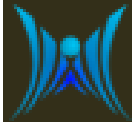
mark MILLENNIUM and the Five Bar M logo () in Classes 16, 35, 36, 42 and 43? OPP

(ii) Whether the Plaintiff has accumulated goodwill and reputation in relation to the trade marks MILLENNIUM and the Five Bar M

logo ()? OPP

(iii) Whether use of the mark MILLENNIUM and the  logo by the Defendants amounts to infringement of the Plaintiff's registered trade mark MILLENNIUM and the Five Bar M logo

()? OPP

(iv) Whether use of the mark MILLENNIUM and the  logo by the Defendants amounts to passing off? OPP

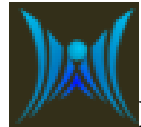
(v) Whether the mark MILLENNIUM is a dictionary word used by various third parties and no monopoly can be claimed therein? OPD

(vi) Whether the mark MILLENNIUM is descriptive and no monopoly can be claimed therein? OPD



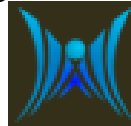
(vii) Whether the suit is liable to be dismissed on account of inordinate delay, laches and acquiescence? OPD

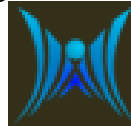
(viii) Whether the Defendants are prior adopters/users of the mark MILLENNIUM and have superior rights therein? OPD



(ix) Whether the Defendants can claim any rights in the  logo on the basis of the alleged copyright registration under No. A103586/2013? OPD

(x) Whether the Plaintiff is entitled to an order of delivery-up and/or destruction of all goods and connected material, available with or in the power and possession of the Defendants or their agents, distributors, marketing entities bearing the trade marks



MILLENNIUM and the  logo? OPP

(xi) Whether the Plaintiff is entitled to claim damages? If so, in what sum? OPP

(xii) Relief.

6. No other issue arises or is pressed.
7. The parties to file their list of witnesses within 15 days.
8. The plaintiff to file affidavits by way of examination-in-chief of its witness/witnesses within eight weeks.
9. Option of having the evidence recorded on commission has been declined.
10. List before the Joint Registrar on 9th July, 2018, for fixing the dates of trial.

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11. List before the Court on 28th August, 2018 for consideration of the application under Order XXXIX Rules 1&2 of the Code of Civil Procedure, 1908 (CPC).

APRIL 04, 2018
'pp'..

RAJIV SAHAI ENDLAW, J

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