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

+ **CS(COMM) 438/2022, I.As. 9790/2022, 9791/2022, 9793/2022, 9794/2022**

VOLTAS LIMITED

..... Plaintiff

Through: Ms. Geetanjali Visvanathan, Ms. Kruttika Vijay and Mr. Abhishek Tripathy, Advs.

versus

ASHOK KUMAR & ORS.

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% **20.06.2022**

I.A. 9792/2022 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CS(COMM) 438/2022

Issue notice to the defendants through all permissible modes, returnable on 27th July, 2022 before Roster Bench.

I.A. 9789/2022 (STAY)

The present application has been filed under Order XXXIX Rule 1 and 2 read with Section 151 CPC.

It has been submitted that the present suit has been filed seeking permanent injunction restraining Defendant No. 1 from infringing the plaintiff's registered trademark(s) through use of the registered and well-

known trademarks VOLTAS and/or the VOLTAS Logo  on the website www.myvoltascare.com, passing off the Impugned Website as that of the Plaintiff, dilution and tarnishment of the Plaintiff's trademark as a result, damages, costs etc and furnishing of details such as KYC information and other details as specified from the remaining Defendants.

The learned counsel for the plaintiff submits that the plaintiff has established trademark, goodwill and reputation in his favour and has a huge turnover running into hundreds of crores. It has been alleged that the entire business of the defendant no.1 through the impugned website www.myvoltascare.com is based on the infringement of the plaintiff's right in its well-known trademarks VOLTAS and its logo , and that there is no legitimate aspect to the business of defendant no.1 through the impugned website www.myvoltascare.com.

It has been submitted that the plaintiff has been continuously and consistently using the trademark and trade name 'VOLTAS' since 1954 which is a coined mark possessing the distinctiveness of an invented word, for its own business activities.

It has been stated that the plaintiff adopted the mark 'VOLTAS' over 65 years ago in the year 1954, as not only a trademark but also as its corporate name and trading style. It has further been stated that the continuous and extensive use of the trademark 'VOLTAS' by the plaintiff over a long period of time spanning a wide geographical area coupled with extensive promotion and publicity, the trademark enjoys an unparalleled reputation and goodwill and has become a well-known mark.

It has been submitted that the plaintiff has good prime facie case in its

favour and an unauthorized use of the plaintiff's trademarks by any third party, particularly in relation to similar goods and services will amount to an unequivocal violation of the Plaintiff's statutory as well as common law rights.

It has been alleged that the defendant no.1 had copied identically the entire look, feel, colour scheme, photographs of the Plaintiff's website and therefore, the defendant no.1 is intentionally and dishonestly defrauding customers by projecting itself to be the plaintiff. The plaintiff has also got an investigation conducted in the matter which confirmed the allegations of the plaintiff. It has been further submitted that the plaintiff also received various complaints from the customers. It has been alleged that Defendant No.1 has also copied or tried to copy the *look and feel* of the Plaintiff's website by using the same images and text along with the Plaintiff's trademarks on the Impugned Website to pass off its goods and to defraud customers. It has been submitted that mobile numbers + 91 9068945609, + 91 9355746558 and +91 7453834753 should be blocked.

I have heard the submissions. I consider that the plaintiff has a good prime facie case in its favour and the activities of defendant No.1 is causing irreparable loss and injury to the plaintiff. The balance of the convenience also lies in favour of the plaintiff.

This Court is of the view that the objective of granting an injunction would be defeated by the delay and issuance of notice to the opposite party. Hence, ad interim *ex parte* injunction is granted as follows;

- a) The defendant No.1, its associated companies, subsidiaries, directors, wholesalers, distributors, partners or proprietors, as the case may be, its officers, servant and agents, or anyone

acting for or on its behalf is restrained from using the Plaintiff's registered and well-known trademark VOLTAS and/or the VOLTAS Logo,  and/or any mark deceptively similar to the Plaintiff's trademarks and/or formative marks in any manner including though not limited to in relation to advertising, directly or indirectly offering any goods or services, using or registering corporate names, domain names, including the Impugned Website, www.myvoltascare.com, or listings on social media websites or e-commerce sites or doing any other act amounting to infringement of the Plaintiff's registered trademarks.

- b) The defendant No.2 is also directed to lock/block/suspend the domain name www.myvoltascare.com.
- c) The defendant No.3 and 4 are directed to block access to as well as disable the website www.myvoltascare.com.
- d) The account bearing no. 33150100043562, IFSC Code No, BARBOVJAZAD at Bank of Baroda, and bank account bearing no. 309015032733, IFSC Code No. RATN0000432 at RBL Bank shall be freezed.
- e) The defendant No.9 is directed to suspend the UPI ID registered on PhonePe as 'myvoltas@IBL'.

The plaintiff is directed to comply with the provision under Order XXXIX Rule 3 CPC.

The copy of this order be given *dasti* under the signature of Court Master.

DINESH KUMAR SHARMA, J
(VACATION JUDGE)

JUNE 20, 2022
Pallavi