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

+ CS (COMM) 160/2020

TOMMY HILFIGER EUROPE B.V.Plaintiff

Represented by: Mr.Pravin Anand, Mr.Dhruv Anand,
Ms.Udita M.Patro and Ms.Kavya
Mammen, Advocate.

versus

M/S TAQUA TEXTILES & ORS. Defendants

Represented by: None.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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09.06.2020

The hearing has been conducted through Video Conferencing.

I.A. 4328/2020 (exemption from filing clear copies, duly notarised affidavits and filing physical copies of the suit papers)

1. Allowed, subject to all just exceptions.
2. Duly sworn/notarised affidavits in support of the plaint and the applications, statement of truth, certifications under Order XI CPC and Section 65B of the Indian Evidence Act be filed within 72 hours from the date of resumption of the normal Court functioning.
3. Application is disposed of.

I.A. 4329/2020 (under Section 149 CPC-Exemption from filing court fees)

1. Allowed, subject to all just exceptions.
2. Court fee be filed within 72 hours from the date of resumption of the

normal Court functioning.

3. Application is disposed of.

I.A. 4327/2020 (under Order XI Rule 1(4) Commercial Courts Act)

1. Additional documents, if any, be filed within 30 days.

2. Application is disposed of.

CS (COMM) 160/2020

I.A. 4325/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A. 4326/2020 (under Order XI Rule 1, 3 and 5 CPC)

1. Plaint be registered as a suit.

2. Issue summons in the suit and notice in the applications to the defendants on the plaintiff taking steps through email, SMS, whatsapp and speed post, returnable before Court on 10th July, 2020.

3. Plaintiff has filed the present suit seeking permanent injunction restraining the defendants from infringing and passing off the plaintiff's trademark 'TOMMY HILFIGER' with its variations and the flag logo i.e.



'TOMMY HILFIGER', 'TOMMY', 'TOMMY SPORT' and

(the Flag Logo) which is registered in various classes as mentioned in para-16 of the plaint.

4. Plaintiff is a company incorporated under the laws of Netherlands having its registered office at Amsterdam. Plaintiff is engaged in designing and manufacturing high end apparels for men, women and children besides footwear, accessories, fragrances and home furnishing etc. Plaintiff claims to have acquired formidable international reputation with more than 1600 Tommy Hilfiger retail stores in over 115 countries.

5. Plaintiff in the suit has impleaded M/s Taqua Textiles and M/s Shine

Exim India as defendant Nos.1 and 2 respectively which are sole proprietorship concerns, owned and operated by one Mr.Mumdhaj Akbarali Abubakkar, who has been impleaded as defendant No.3. Defendants though working and residing at Tamil Nadu are infringing the plaintiff's trademark which fact was revealed to the plaintiff from the webpage of Indiamart on 2nd June, 2020. Defendant No.1 was found advertising face masks bearing the plaintiff's registered trademarks. On further investigation it was revealed to the plaintiff that the defendant No.1 was not only dealing in counterfeit face mask but also clothing bearing the trademarks of not only the plaintiff but other reputed brands also. Defendants besides advertising and offering for sale its products at Indiamart are also advertising on Facebook, Instagram and Justdial which also amounts to an offer for sale. Defendants are also advertising and offering for sale their products from their websites i.e. taquatextiles.com and taquatextiles.in.

6. Considering the material placed on record, plaintiff has made out a prima facie case in its favour and in case no ad-interim injunction is granted the plaintiff would suffer an irreparable loss. Balance of convenience also lies in favour of the plaintiff.

7. Consequently, an ad-interim ex-parte injunction is granted in favour of the plaintiff and against the defendants in terms of prayers (i) and (ii) of para-29 of I.A. No.4325/2020.

8. Compliance under Order XXXIX Rule 3 CPC be made within one week. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

JUNE 09, 2020/'vn'