

TM 22/16
24/03/2016

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BEFORE THE HON'BLE DISTRICT JUDGE
SAKET COURT, NEW DELHI (SOUTH EAST)

TM No. of 2016



IN THE MATTER OF:

Metro Institutes of Medical Sciences P. Ltd
Having its registered Office at:
14, Ring Road
Lajpat Nagar -IV
New Delhi -110 024

... Plaintiff

VERSUS

Metro Hospital
C/o Dr Pritam Bhosle
Shop No. A-2, Sector -36
Main Road, Near ICICI Bank
Kamathe
Mumbai - 410209

These case has been
deposited to the court of
S.M.J. (A.J.) E. Kumar A.S.J
for the hearing conducted today
at 2 PM.
Charat & Sessions Judge
(South) - EAST
Saket Courts Complex
New Delhi
29-3-16
... Defendant

SUIT FOR PERMANENT INJUNCTION RESTRAINING INFRINGEMENT
OF TRADE MARK, PASSING OFF FOR RENDITION OF ACCOUNTS OF
PROFITS, DELIVERY UP, ACTS OF UNFAIR COMPETITION E.T.C.

The Plaintiff above-named most respectfully submit as under:-

1. The Plaintiff namely, Metro Institutes of Medical Sciences Private Limited,
is a company incorporated under the Companies Act, 1956, India having
its registered office at 14, Ring Road, Lajpat Nagar -IV, New Delhi -110
024. Mr. Govind Kumar Sharma is the authorized signatory to institute the
present suit and to sign and verify the pleadings on its behalf.

With a vision to provide the utmost level of healthcare to the common
man at the most affordable cost, Dr. Purshotam Lal the chairman of the
Plaintiff with the help of a group of NRI physicians founded the first
hospital under the name, Metro Hospitals & Heart Institute (MHHI) at
Noida in June 1997. Immediately after foraying into the heart care
segment in 1997, the Plaintiff started in September, 1998, a multispecialty

Cal-11928/16
28/3/16

DIPOSED

20/4/16

IN THE COURT OF SH. LAJIT KUMAR:
ADDITIONAL DISTRICT JUDGE 01 - SOUTH EAST DISTRICT, SAKET
COURTS, NEW DELHI

TM - 22/16

Metro Institutes of Medical Sciences Pvt. Ltd.

Versus

Metro Hospital

Order:
30.03.2016

Present: Id. Counsel for plaintiff.

This is a suit for permanent injunction, restraining infringement of Trade Mark, rendition of accounts of profits, delivery up etc. received by assignment. It be checked and registered.

Id. Counsel for the plaintiff submitted that ad-interim ex-parte injunction/protection may be granted to the plaintiff as prayed in his application u/o XXXIX rule 1&2 read with Section 151 CPC as defendant is infringing the Trade Marks registered in the name of plaintiff.

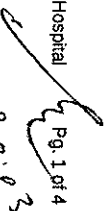
Heard on the prayer for ex-parte ad-interim injunction and have perused the records. The brief facts of the case are that:

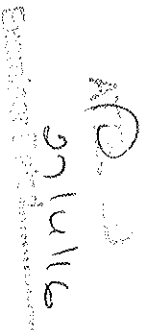
1. The plaintiff was originally founded the first hospital under the name Metro Hospital and Heart Instituted at Noida in June 1997 and lateron a Multispeciality Wing under the name Metro Multispeciality Hospital were set up. The plaintiff was originally incorporated as U.G Hospitals Pvt. Ltd. as on 20.02.1990. The

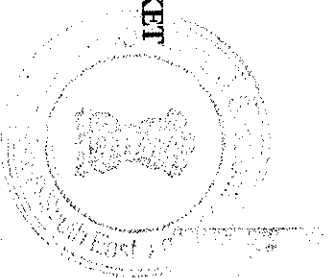
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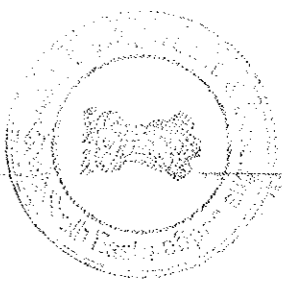
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name of plaintiff changed to its present name i.e. Metro Institutes of Medical Sciences Pvt. Ltd on 17.05.2007. The aforementioned registrations were applied in the name of U G Hospitals Pvt. Ltd. (plaintiff as originally incorporated). These registrations are duly renewed and valid. The plaintiff has filed appropriate applications on Form TM 33 with the Trade Mark Registry to record the change in the name of the plaintiff to its present name. The same is pending with the Trade Mark Registry. Though, the plaintiff is the registered proprietor of the trade marks Metro, Metro Heart Institute and Metro Hospital, which is a composite mark / label incorporating the essential component i.e. Trade name Metro used since 1997.

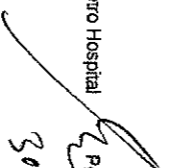
2. It is further averred that the plaintiff came to know about the defendant namely "Metro Hospital" that it is using the identical trade mark of plaintiff as infringed one and accordingly issued a cease and legal /desist notice dated **13.02.2016** to which the defendant did not reply inspite of having received it on 04th March 2016.

3. It is further argued that plaintiff has got incorporation certificate as well as certificate of trademark registration in the year 2007. Plaintiff argued that the said registration is still valid in his favour and has not been overruled by the registration authorities or has not been expired yet. Defendant has maliciously using its name and deceptively projecting himself as Metro Hospital. The goodwill earned by the plaintiff from the last 19 years are on the stake due to the above and is adversely affecting the interest and reputation of plaintiff. Defendant by using the plaintiff's trademark is indeed deceiving the common

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APPROVED
21/4/16

Registrar of Trademarks

people.

4. Id. Counsel for plaintiff relied upon case titled as *Morgan Stanley Mutual Funds; Arvind Gupta Vs. Kartick Das; Securities and Exchange Board of India 1994 Law Suit (SC)549* qua the territorial jurisdiction of this court to entertain the present petition.

Id. Counsel for plaintiff relied upon a case law as **CS (OS) 3289/2012 Metro Institutes of medical Sciences P Ltd. Vs. Dr. Fahad Islahi and Anr** in support of his arguments qua present application.

5. The plaintiff has established a prima facie case and the balance of convenience is in favour of the plaintiff. The plaintiff will suffer irreparable loss and injury unless an order of interim injunction is granted during the proceedings restraining the defendant from providing medical and hospital services under the impugned trade mark METRO.


6. Considering the circumstances, defendant, his directors, partners or proprietor, as the case may be, assignees in business franchisees, licensees, distributors, dealers and agents are restrained from using "Metro" as trade name / trade mark or as a part of its corporate name and / or trading name in respect of medical services or any other trade mark or trade name as may be deceptively similar thereto till the next date of hearing. **However, it is made clear that this order shall come into effect after 15 days from the service to the defendant.** Compliance of order 39 rule 3 be done within a week.

7. Nothing stated herein shall tantamount the expression of any opinion on the merits of this case.

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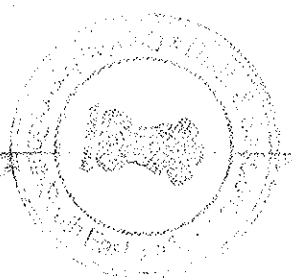

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TESTED

30/3/16

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Notice of the suit alongwith application under Order XXXIX Rule 1 and 2 CPC be issued to the defendant on filing of PF/RC for 12.07.2016 . Steps within 7 working days.

PF/RC
19/7/16

[Signature]
15.07.2016
(JALIT KUMAR)
Additional District Judge 01 (SE),
Saket Courts, New Delhi/30.03.2016

Case No.	
Date	21/7/16
Applicant	
Respondent	
Order	