

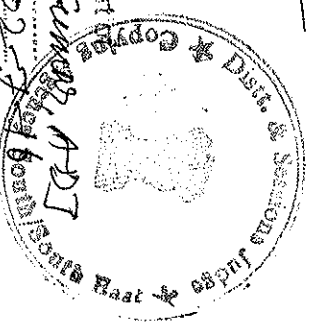
South Red Sakti

BEFORE THE HONBLE DISTRICT JUDGE
SAKET COURT, NEW DELHI

TM No.

of 2016
Present:-

This case has been
allowed to proceed on the
basis of the following order



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

Dr. Ashok Kumar
Metro Speciality Hospital
No. 10/1, Radhakrishnan Salai
Valasaravakkam, Chennai- 600087

VERSUS

...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.
2. 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 wing under the name Metro Multispecialty Hospital was set up. This was

ATTESTED

25/1/16

T.M-35/16

Metro Institute of Medical Sciences Vs. A. Ashok Kumar

02.07.2016

Fresh suit received by assignment. It be checked and registered.

Present: Sh. Sachin Gupta, Id. Counsel for plaintiff.

Heard on the summoning.

Let, 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 16.09.2016. Steps within 7 working days.

At this stage Id. Counsel for plaintiff pressed upon his application under Order XXXIX Rule 1 & 2 CPC.

Arguments heard.

Put up for orders at 4:00 PM.

(LALIT KUMAR)

ADJ-1 (South East) Saket Courts
New Delhi/02.07.2016

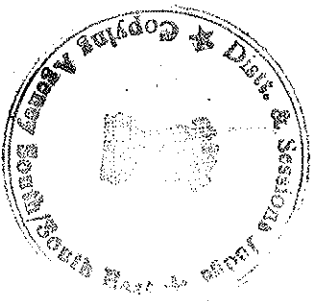
PHIRE
P. S. R. S.
IN/PT/11



ATTESTED

Examined by: *[Signature]*
Examined by: *[Signature]*

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



TM - 35/16

Metro Institutes of Medical Sciences Pvt. Ltd.

Versus

Dr. A. Ashok Kumar

Order:
02.07.2016

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 arising out of the present 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

TM 35/16

Metro Institutes of Medical Sciences P. Ltd. Vs. Dr. A. Ashok Kumar

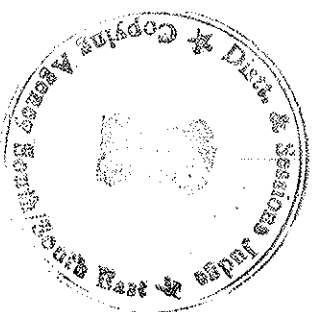
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02.07.16

ATTORNEY

Examination

02/07/16



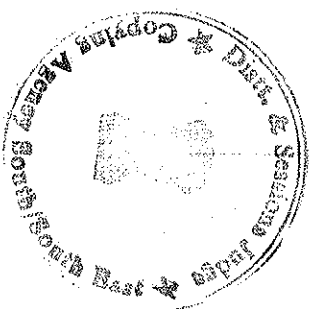
name of plaintiff changed to its present name i.e. Metro Institutes of Medical Sciences Pvt. Ltd on 17.05.2007. The aforementioned registrations were applied in the name of U G Hospitals Pvt. Ltd. (plaintiff as originally incorporated). These registrations are duly renewed and valid. The plaintiff has 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 "Dr. A. Ashok Kumar" that he is co-operating under the Trade Mark/name Metro Speciality Hospital from the trade mark registry's website wherein the defendant has filed an application for registration of the trade mark METRO SPECIALITY HOSPITAL under application no. 3207678 dated 10.03.2016. Coming to the knowledge of this fact, plaintiff issued a cease and desist notice dated **08.06.2016** which was received to the defendant on 13.06.2016, however, defendant has not been a responded to the plaintiff's legal notice till date. Tracking report of the India Post filed on record.

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

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C. S. N. I. C.
EX-10



maliciously using its name and deceptively projecting himself and using the Trade mark/name Metro Hospital . The goodwill earned by the plaintiff from the last 19 years are on the stake due to the above act of the defendant and is adversely affecting the interest and reputation of plaintiff. Defendant by using the plaintiff's trademark is indeed deceiving the common people at large.

4. Ld. Counsel for plaintiff relied upon case titled as **Ultra Home Construction Pvt. Ltd. Vs. Purshotam Kumar Chaubey & Others** FAO (OS) 494/2015 and CM 17816/2015 *decided by the Hon'ble High Court of Delhi* qua the territorial jurisdiction of this court to entertain the present petition.

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.

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Metro Institutes of Medical Sciences P. Ltd. Vs. Dr. A. Ashok Kumar

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ATTESTED

Examination Order 37/16

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

Copy of this order be given dasti.


02.07.16

(LALIT KUMAR)
Additional District Judge 01 (SE),
Saket Courts, New Delhi/ 02.07.2016



Office of Additional District Judge
Copy
02.07.16
Date: _____
Additional District Judge
Saket Courts, New Delhi