

TM No. 20/15
14/12/2015

BEFORE THE HONBLE DISTRICT JUDGE DIST SOUTH EAST
SAKET COURT, NEW DELHI

TM No. _____ of 2015

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

Metro Multispecialty Hospital
Door No. 19-5-22/1, Kishanbagh
Hyderabad- 500064
Near NM Guda Bus Stop
Opposite Kakatiya High School

...Defendant

VERSUS

श्री. कवि कुमार अडि
14/12/15

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

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

1. ^{*Sitmanis of Yobanis*} 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. ^{*Sitmanis 11/12/15*} 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

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

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Metro Institutes of Medical Sciences Pvt. Ltd.

Versus

Metro Multispeciality hospital

Order:

14.12.2015

Present: I.d. Counsel for plaintiff

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

I.d. 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 39 r. 1&2 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 incorporated as U.G Hospitals Pvt. Ltd. As on 20.02.1990. The 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

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Metro Institutes of Medical Sciences P. Ltd. Vs. Metro Multispeciality hospital

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ATTESTED
18.11.16

14.12.15



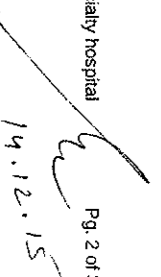
in the name of U G Hospitals Pvt. Ltd. (plaintiff as originally incorporated). These registrations are duly renewed and valid. The plaintiff has filed appropriate applications on Form TM 33 with the Trade Mark Registry to record the change in the name of the plaintiff to its present name. The same is 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 Multispecialty Hospital" that it is using the identical trade mark of plaintiff as infringed one and accordingly issued a legal notice dated 13.11.2015 to which the defendant did not reply inspite of having received it on 16th November 2015.

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 people.

4. Id. Counsel for the plaintiff relied upon a case CS (OS)

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14.12.15

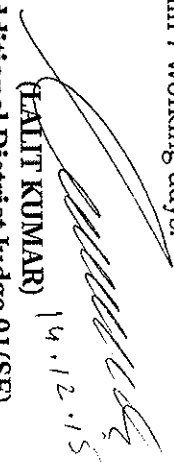

Examined 15/11/16



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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 the case.

Notice of the suit be issued to the defendant on filing of PF/RC for 03.03.2016 .Steps within 7 working days.


RAJIT KUMAR

Additional District Judge 01(SE),
Saket Courts, New Delhi/ 14.12.2015

Office of the

Metro Institutes of Medical Sciences P. Ltd. Vs. Metro Multispecialty hospital

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Date 14.12.15
Authorised by AB
Indian Evidence Act