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

+ CS(COMM) 352/2022

HT MEDIA LIMITED & ANR. Plaintiffs
Through: Mr. Vivek Ayyagari, Adv.

versus

WWW.HINDUSTANTIMES.TECH & ANR. Defendants
Through: Mr. Divyam Agarwal,
Defendant 14 in person

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

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27.09.2023

1. HT Media Ltd and HT Digital Streams Ltd felt aggrieved by the registration of the domain name www.hindustantimes.tech and, accordingly, instituted the present suit, seeking suspension of the said domain name and its transfer to the plaintiffs. As the registrant of the impugned domain name was unknown, the domain name www.hindustantimes.tech itself was impleaded as Defendant 1. During the course of proceedings, Mr. Divyam Agarwal was revealed to be the registrant of the impugned domain name. Accordingly, by an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC), the plaintiffs impleaded Mr. Divyam Aggarwal as Defendant 14. The remaining defendants are all officials, who have been impleaded to facilitate implementation of the prayers sought in the suit. The prayer clause, in the suit, is as under:

“In light of the above, it is humbly prayed that this Hon’ble Court may be pleased to grant the following reliefs in favour of the Plaintiffs:

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- a. Issue an order and decree of permanent injunction restraining Defendant No. 1, its owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from, in any manner copying, reproducing, hosting, storing, making available, communicating and publishing or facilitating the same on its website, www.hindustantimes.tech, or any other website or online location owned or operated by it, in any manner whatsoever, the Plaintiffs' Original Content amounting to infringement of Plaintiffs' copyright therein;
- b. Issue an order and decree of permanent injunction restraining Defendant No. 1, its owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from, in any manner using directly or indirectly the name/mark 'HINDUSTAN TIMES' or any other mark identical / deceptively similar to the Plaintiffs' trademark 'HINDUSTAN TIMES' amounting to trademark infringement of the Plaintiff No. 1's registered trademark 'HINDUSTAN TIMES';
- c. Issue an order and decree of permanent injunction restraining Defendant No. 1, its owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from, in any manner using directly or indirectly the name / mark 'HINDUSTAN TIMES' or any other mark identical / deceptively similar to the Plaintiffs' trademark 'HINDUSTAN TIMES' amounting to passing off of the Plaintiffs' trademark 'HINDUSTAN TIMES';
- d. Issue an order and decree of permanent injunction restraining Defendant No. 1, its owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from, in any manner using directly or indirectly the name / mark 'HINDUSTAN TIMES' or any other mark identical / deceptively similar to the Plaintiffs' trademark 'HINDUSTAN TIMES' amounting to unfair competition, misappropriation, dilution and tarnishment

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of the Plaintiffs' trademark i.e., 'HINDUSTAN TIMES';

e. Issue an order and decree directing Defendant No. 2, their directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and, on their behalf, or anyone claiming through, by or under it, to block / suspend access to Defendant No. 1's website, www.hindustantimes.tech and to disclose the contact details and other details of the owner / registrant of the domain name of the Defendant No. 1 website such as name, email address, physical address, phone number, all IP addresses used by Defendant No. 1, invoices issued by Defendant No. 2 to the owner/registrant of the Defendant No. 1 website, details regarding credit card or bank account of owner / registrant of Defendant No. 1;

f. A decree directing the Defendant No. 1 and / or the Registrar of the Impugned Website (i.e., www.hindustantimes.tech) to transfer the domain name in favour of the Plaintiffs, and / or any other domain name owned by the Defendant No. 1 comprising of the the Plaintiffs' trademark 'HINDUSTAN TIMES' or any other mark being identical / deceptively similar thereto;

g. Issue an order and decree directing Defendant Nos. 3 - 11, their directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and, on their behalf, or anyone claiming through, by or under it, to block / suspend access to Defendant No. 1's website, www.hindustantimes.tech;

h. Issue an order directing the Defendant Nos. 12 and 13 to issue a notification calling upon the various internet and telecom service providers registered under it to block / suspend access to Defendant No. 1's website, www.hindustantimes.tech;

i. Issue an order and decree declaring the trade mark / 'Hindustan'/'Hindustan Times' of the Plaintiffs a well-known mark under the Trade Marks Act, 1999 on account of the said marks having acquired well-known status in the relevant section of the public in India (including knowledge in India), as a result of promotion, extent of use, number of actual users of goods and services.

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j. A decree for rendition of accounts of profits illegally earned by the Defendant No. 1 on account of the use of the Impugned Website and a decree for the amount so found be passed in favour of the Plaintiffs;

k. Issue an order for damages of Rs. 2,00,01,000/- to be passed in favour of the Plaintiffs and against the Defendant No. 1 on account of the unauthorized use of the Plaintiffs' Original Content and the mark 'HINDUTAN TIMES' and a decree for the said amount be passed in favour of the Plaintiffs;

l. An order for the costs of these proceedings against Defendant No. 1 and in favour of the Plaintiffs; and

Any other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Mr. Divyam Agarwal is present in person today. He submits that he had obtained the registration of the domain name www.hindustantimes.tech by mistake and expressed contrition in that regard. He submits that he has no objection to surrendering the said domain name and to its transfer to the plaintiffs. He also undertakes not to use any mark or seek registration of any domain name which includes "Hindustan Times" or "hindustantimes" as part thereof, or to use or operate any website containing copyrighted content of the plaintiff.

3. In view of the said statement, the dispute in this suit, does not survive for consideration.

4. The suit is, accordingly, decreed by directing transfer of the domain name www.hindustantimes.tech, to the plaintiffs. The official respondents shall take all steps to ensure the implementation of this

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order within a period of one week from today.

5. As Mr. Divyam Agarwal is an individual, Mr. Vivek Ayyagari, learned Counsel, on instructions, does not press costs and damages.

6. Accordingly, the suit stands decreed in the aforesaid terms. Let a decree-sheet be drawn up accordingly.

7. The plaintiffs shall be entitled to refund of the court fee, if any, deposited by them.

C.HARI SHANKAR, J

SEPTEMBER 27, 2023

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