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

% *Date of Decision:* 30.08.2018

+ CS(COMM) 815/2017

THE CHRISTIAN BROADCASTING NETWORK, INC..... Plaintiff
Through Mr.Manish Dhir and Mr.Sharabh
Shrivastava Adv.

Versus

CBN NEWS PRIVATE LIMITED Defendant
Through Ms.Sweta Badola, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. The present suit is filed by the plaintiff seeking permanent injunction, restraining passing-off, rendition of accounts and damages against the defendant, its partners, employees, etc from marketing, promoting and advertising the offending trade mark CBN NEWS/CBN/ CBN formative mark and any other mark of the plaintiff which is being used either as a trademark/ trade name/ domain name or in any other manner whatsoever that may amount to passing off its services/ project of the plaintiff. Other connected reliefs are also sought.

2. It is contended in the plaint that plaintiff is a corporation renowned under its news channel known as "CBN NEWS" which is involved in broadcasting activities such as news reporting, producing TV shows and other media content in various parts of the world. The registered office of the plaintiff is covered under the laws of the State of Virginia, USA.

3. The plaintiff further contented that the letters “CBN”, which is an acronym for Christian Broadcasting Network, as well as the “CBN” logo and other CBN formative marks, namely, CBN Radio, CBN International, CBN News etc, are being used by the plaintiff globally since 1960, establishing a status of well-know trademark and has acquired an enviable reputation amongst the public at large.

4. It is pleaded that in India, the first presence of the plaintiff can be traced back in 1994. The broadcast of the plaintiffs’ programs in India are in various languages. The plaintiffs’ media content/stories are broadcasted on National TV, Epic, Discovery Kids, Sakshi TV, DD Punjabi, Colours Bangla and All India Radio. It is further pleaded that in India. the plaintiff registered “CBN Multimedia Private Ltd.” in the year 2000 and also registered “CBN Foundation” under the Societies Registration Act, 1860 in January, 2011, both having their headquarters in Gurugram, Haryana. Since, then the plaintiff has been majorly involved in producing/broadcasting various media content in mainstream TV channels in India. It is also providing free humanitarian services in various states of the country through its foundation.

5. It is stated in the plaint that the plaintiff also owns a Youtube channel to broadcast news throughout Indian viewers and claim to have received over 1,40,000 views from India in the year 2016. It also publishes various news articles/reports through its website, namely, www.cbn.com by this it promotes/advertise its content vigorously in India. Thus, the plaintiff has amassed its popularity and recognition due to its news reporting channel and programs under the trademark “CBN”, in India.

6. In March, 2017, the plaintiff came across defendants’ Youtube channel and website, namely, www.cbnnews.in, which is being used under

the brand name of “CBN NEWS”, being similar/ identical to plaintiffs’ trademark. On preliminary search it was disclosed that the defendant is a company incorporated on 16.08.2016 having its headquarters in Jalandhar, Punjab. It was also disclosed that defendants’ application bearing number: 3399522 for registration of “CBN NEWS” mark in class 38, is under objection by the registrar of trademarks since 16.08.2016. Hence, it is pleaded that the mark of the defendants is similar/identical to that of plaintiffs’ trademark.

7. That on 27.04.2017, the plaintiff served a cease and desist notice to the defendants registered office. A letter of reminder was also sent to the defendants on 23.05.2017. Despite service the defendant on 02.06.2017 refused to comply with the contention of the plaintiff and claimed that they have been using the impugned mark “CBN NEWS” since almost a year and by virtue of such use the said mark is associated only with the defendant and that the mark CBN being used is an abbreviation of their slogan “Channel Bazar Network”. The plaintiff further attempted to initiate dialogue with the defendant, to resolve the issue at hand, however, the defendant has categorically stated that it will continue to use the mark “CBN” and the channel “CBN NEWS”.

8. Hence, the present suit is filed by the plaintiff.

9. On 29.11.2017, this court was pleased to issue summon to the defendant through all modes and liberty was granted to the defendant to file its written statement within four weeks from the receipt of the summons. This court further was pleased to restrain the defendants or its agents, servants, directors etc, to use or for applying the trade mark/trade name CBN NEWS/CBN NEW PRIVATE LIMITED or any other mark/ name

deceptively similar to the plaintiffs' mark CBN and/or CBN formative marks in any manner whatsoever.

10. The defendant was served and entered appearance on 07.02.2018 and sought time to comply with the order of this court dated 29.11.2017. On 19.03.2018, this court closed the right of the defendant to file the written statement. Afterwards the learned counsel for the defendant entered appearance and submitted that the written statement has been filed on 17.03.2018 but the same is not on record.

11. On 12.04.2018 the parties requested that they would like to settle the matter through mediation and they were directed to Mediation and Conciliation Center of this court. However, no settlement could be arrived at.

12. I have heard arguments and have examined the contents of the plaint and the documents placed on record. It is also pertinent to mention that defendant has failed to file the written statement. The plaintiff has filed an application under Order 8 Rule 10 CPC i.e. I.A 11603/2018.

13. The scope of Order 8 Rule 10 CPC in commercial suits particularly under the New Commercial Courts, Commercial Division and Commercial Appellate Division of the High Court Act, 2015 has being examined by this court in *Nirog Pharma Pvt. Ltd. vs. Umesh Gupta & Anr.*, **235(2016)DLT354** . This court held as follows:

“11. Order VIII Rule 10 has been inserted by the legislature to expedite the process of justice. The courts can invoke its provisions to curb dilatory tactic, often resorted to by defendants, by not filing the written statement by pronouncing judgment against it. At the same time, the courts must be cautious and judge the contents of the plaint and documents on record as being of an unimpeachable character, not requiring any evidence to be led to prove its contents.

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28. The present suit is also a commercial suit within the definition of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 and it was the clear intention of the legislature that such cases should be decided expeditiously and should not be allowed to linger on. Accordingly, if the defendant fails to pursue his case or does so in a lackadaisical manner by not filing his written statement, the courts should invoke the provisions of Order VIII Rule 10 to decree such cases.”

14. In my view, it is a suitable case to pass a decree under Order 8 Rule 10 CPC in favour of the plaintiff and against the defendant.

15. Accordingly, keeping in view of the above facts, I pass a decree of permanent injunction in favour of the plaintiff and against the defendant its agent, servants, directors, etc in terms of prayer paragraphs A(a) and A(b) of the plaint. Plaintiff shall also be entitled to actual costs.

16. The suit is accordingly disposed of on the above terms. All pending applications, if any, also stands disposed of.

JAYANT NATH, J.

AUGUST 30, 2018/SS