

IN THE HIGH COURT OF DELHI AT NEW DELHI

**CS(OS) 441/2014, IA No.2927/2014 (u/o 39 R-1and2 CPC) and IA
No.6354/2014 (of the defendant u/S 151 CPC) and IA No.6355/2014 (of the
defendant for exemption)**

RAJESH LAMBA Plaintiff

Through: Mr. Vijay Pal Dalmia and Mr. Pavit Singh Katoch, Advs.

versus

COSMIC STRUCTURES LTD Defendant

Through: Mr. Rupesh Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

03.04.2014

1. The plaintiff has filed this suit for the following reliefs:-

?(a) A decree of permanent injunction restraining the defendant, their promoters, directors, partners, family members, dealers, distributors, retailers, representatives, franchisees, employees, servants, agents, successors in title or any one acting for and on their behalf from using the name of the plaintiff or the name of any of plaintiff?s projects in any manner whatsoever including but not limited to on their website, brochures, publicity material, advertisements, and further from claiming the plaintiff to be a Director of the defendant Company or associated with the defendant Company in any other capacity or manner;

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(b) Pass an order directing the defendant to deliver and hand over all printed and advertising material bearing the name of the plaintiff or any of his projects or the reference that the plaintiff is a Director of the defendant Company;

(c) Pass a decree directing payment of Rs.20,10,000/- as damages for illegal and unauthorized use of the name of the plaintiff, the name of the plaintiff?s projects and the goodwill of the plaintiff, along with interest @ 24% per annum from the date of the filing of the present suit till the date of the realisation of the amount; and,

(d) Cost of the suit may please be allowed in favour of plaintiff and against the defendant.

2. The plaintiff, in the plaint in para 7 has inter alia stated that the plaintiff does not know the defendant Company save to the extent of what is in public domain on the internet.

3. While issuing summons of the suit, vide ex parte order dated 14th February, 2014, the defendant was restrained from using the name of the plaintiff in any manner whatsoever.

4. The defendant, upon being served with summons of the suit, instead of filing a written statement has filed IA No.6354/2014 inter alia stating that the defendant and its Managing Director have had a long

association with the plaintiff and the plaintiff has falsely portrayed in the plaint as if the plaintiff does not know the defendant and that the defendant has attempted to piggyback on the expertise and experience of the plaintiff.

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5. The counsel for the defendant further states that the defendant has no objection to the suit being decreed in terms of para ?(a)? supra of the prayer clause.

6. The counsel for the plaintiff in rejoinder has argued that though the plaintiff in para 7 of the plaint has portrayed that he did not know the defendant but has in para 21 of the plaint admitted the relationship with the defendant and receipt of payments from the defendant.

7. The plaintiff indeed has not made a complete disclosure of facts. The plaintiff, in the beginning of the plaint has painted a picture of

the defendant, without any permission having commenced using the name of the plaintiff. A disclosure towards the end of a lengthy plaint does not serve the purpose and amounts to paying lip service to the requirement of coming to the Courts with clean hands. It does not appear that the plaintiff, even on 14th February, 2014 when ex parte injunction against the defendant was obtained, informed the Court of having received payments from the defendant.

8. Faced therewith, the counsel for the plaintiff states that he is not pressing for the relief of damages and delivery.

9. Accordingly, the suit is decreed, in favour of the plaintiff and against the defendant, in terms of prayer paragraph ?(a)?of the plaint, leaving the parties to bear their own costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

APRIL 03, 2014

PP

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\$ 6.

