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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 474/2021, I.A. 12603/2021, I.A. 12608/2021, I.A.
12609/2021 & I.A. 47983/2024
LOREAL S.A.Plaintiff

Through: Mr. Rishabh Gupta, Adv.
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versus

ASHOK KUMAR AND & ORS.Defendants
Through: Mr. Rishabh Dev Mishra, Adv. for D-
3 (Through VC)
Mr. Rajesh Gogna, CGSC with Mr.
Mohd. Bilal, Ms. Priya Singh, Mr.
Nishant Sharma and Ms. Archana
Roy, Advs. for D-4.
M: 9911222251
Email: office@gogna.co.in

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
04.03.2025

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MINI PUSHKARNA, J: (ORAL)

I.A. 47983/2024 (Application under Order XIII-A Rules 3 and 4 of the Code of Civil Procedure, 1908 for Summary Judgment)

1. The present application has been filed by the plaintiff under Order XIII-A, Rules 3 and 4 of the Code of Civil Procedure, 1908 ("CPC"), as amended by the Commercial Courts Act, 2015, for passing a summary judgment and decree in favour of the plaintiff.



2. The present suit has been filed by the plaintiff seeking relief of permanent injunction restraining the defendant no.1 from infringement of registered trademark and copyright of the plaintiff and other conjuncted reliefs of passing off, delivery up, damages, rendition of accounts, etc.

3. The grievance of the plaintiff is that there are unknown defendants who are infringing plaintiff's trademark i.e., "L'Oreal", **L'ORÉAL**,

 ,  ,  , and are

committing fraud and misleading prospective consumers/business entities/general public by impersonating the plaintiff's employees to lead the consumers into believing that they are acting on behalf of the plaintiff.

4. The case, as canvassed in the present plaint, is as follows:

4.1 The plaintiff is a society organized under the laws of France and is engaged in the business of manufacture, distribution, and sale of a wide range of hair care, skin care, toiletries and beauty products, including, make-up, perfumery preparations, essential oils, cosmetics, preparations for colouring and bleaching the hair, shampoo, hair sprays, etc.

4.2 Plaintiff works in India through its wholly owned subsidiary, L'Oreal India Pvt. Ltd., which is a company duly incorporated under the laws of India and having its registered office at Joshi Marg, Lower Parel, Mumbai.

4.3 The plaintiff is the *bonafide* user and adopter of the trademark/label L'Oreal and other various stylized labels since the year 1900. The plaintiff's goods under its trade mark/trade name are branded and sold in about 130 countries across the world, including, in India, wherein, the plaintiff also enjoys trans-border reputation. The goods are freely and commercially



available in India since the past three decades and are sold in about 300 major towns and cities. It has built a globally valuable trade and has invested crores of rupees in the same.

4.4 Plaintiff has been promoting its products through leading brand ambassadors and personalities, including, Ms. Aishwarya Rai, Ms. Sonam Kapoor, and Ms. Deepika Padukone.

4.5 Plaintiff invests heavily in Research and Development (“R & D”) to ensure quality, safety, innovation, and reliability of its products. The plaintiff has invested about 490 million Euros in R & D and about 3% of plaintiff’s annual turnover goes to R & D. Plaintiff has research laboratories in France, U.S.A and Japan which employ about 2350 researchers from over 30 disciplines and also collaborates with research units in about 20 countries worldwide in advanced scientific fields.

4.6 Further, the art work involved in the plaintiff's various L'OREAL stylized, formative/bearing and labels are original artistic works and plaintiff holds copyright therein. The artistic works involved in the plaintiff's trademark/label L'OREAL, and other formative marks/labels are the original artistic works within the meaning of Indian Copyright Act, 1957, and the plaintiff is the owner and proprietor, thereof.

4.7 Defendant no. 1 is unknown person/persons, who have fraudulently engaged with different business entities to commit fraud, impersonation and are misleading the general public into believing that they are acting on behalf of the plaintiff. The unknown persons, in order to provide the genuine look and feel of entire business process are running a website under the domain name www.lorealglobal.in, which contains the trademark of the plaintiff.



4.8 Defendant no. 2 is the domain name registrar of the website www.lorealglobal.in and defendant no. 3 is the telecom service provider for the mobile number, which is being used by the defendant no. 1 in respect of its fraudulent activities. Further, defendant no. 4/Department of Telecommunication, defendant no. 5/Ministry of Electronic and Information Technology and defendant no. 6/National Internet Exchange of India have been arrayed as parties in the present suit for the purposes of issuing directions to the concerned service providers.

4.9 The plaintiff came to know about the impugned activities, when one entity, Nicholas Healthcare Limited, reported the fraudulent activity to the plaintiff on 20th September 2021. Upon preliminary search, the plaintiff came to know that the defendant no.1 was impersonating the actual individuals working with the plaintiff's India subsidiary, i.e., L'Oreal India Pvt. Ltd.

4.10 Defendant no. 1 is operating the domain name/website www.lorealglobal.in having LOREAL as a prominent, essential, and significant feature. The said website is a rogue website and is being used with *malafide* intent to mislead the common public. By way of the fraudulent activities, the defendant no. 1 is infringing upon the registered trademark of the plaintiff, resulting in loss of both business and reputation.

4.11 Being aggrieved by the aforesaid acts of the defendant, the present suit has been filed.

5. I have heard learned counsel for the parties and have perused the record.

6. The plaintiff has filed the present application, being *I.A. No. 47983/2024*, seeking summary judgment under Order XIII-A, Rules 3 and 4



of CPC, against the defendants.

7. As per the case canvassed by the plaintiff, the plaintiff is the proprietor of various trademarks around the world and in India, which are valid and subsisting. The plaintiff's trademarks, including "L'OREAL," "L'OREAL PARIS," and its stylized versions, have been registered and protected under Indian and international laws for several decades. The plaintiff holds various registered trademarks in India, dating as far back as 1954. Details of the Indian registrations of the plaintiff, as filed with the plaint, are given below:

Trademark	Date of Registration	Registration No.	Class
L'OREAL (Word Mark)	14.09.1954	165778	03
L'OREAL (Label)	08.06.1987	47329	03
L'OREAL Progress (Word Mark)	25.10.1988	499858	03
L'OREAL PLENTITUDE (Word Mark)	20.08.1987	477223	03
L'OREAL SOLAR EXPERTISE	04.10.2006	1493028	03
L'OREAL PREFERENCE	04.10.2006	1493024	03
L'OREAL ULTRA VOLUME COLLAGEN	28.07.2008	1714865	03
L'OREAL	28.01.2009	1778491	03



EXTRA VOLUME COLLAGENE			
L'OREAL STRAIGHT PERFECT	25.06.2009	1832958	03
L'OREAL (Label)	03.07.2009	1836274	03
L'OREAL 5 PROBLEMS, 1 SOLUTION	20.11.2009	1887201	03
L'OREAL	25.06.2009	1832961	18

8. On the basis of the documents on record, it is apparent that the plaintiff has built substantial goodwill and a strong reputation both globally and in India over the years. The same is evident from their 2020 Annual Report, as filed with the plaint, which reflects their sales amounting to 27.99 billion Euros and an operating profit of 5.20 billion Euros, generated across 150 countries.

9. This Court notes the controversy in the present matter, as given in paragraph 24 of the plaint, which is reproduced as under:

“xxx xxx xxx

24. That in the instant case, Plaintiff came to know about the above impugned/fraudulent activities, when one entity, Nicholas Healthcare Limited, reported the fraudulent activity to the Plaintiff on 20th of September 2021. The chain of events reported by Nicholas Healthcare Limited has been mentioned below:

A. The Defendant No. 1, on 13th of September 2021 sent an email to Nicholas Healthcare Limited indicating acceptance of bid for supplying products by impersonating the Plaintiff's Indian subsidiary's employee-Mr. Paresh Deshmukh, Sr. Manager Purchase and misrepresenting to be acting on behalf of the L'Oreal India Pvt. Ltd. Copy of the said email is detailed in the list of the documents and filed herewith.



B. That Nicholas Healthcare Limited accepted the said proposal and asked for certain documents (such as GST Certificate, Certificate of incorporation, Copy of Cancelled Cheque, Billing and Delivery address) to proceed further vide its mail dated 13th September 2021 at 21:05. Copy of the said email is detailed in the list of the documents and filed herewith.

C. That subsequently on 14th September 2021 at 05:04 PM, Defendant No. 1, supplied the fake and forged GST certificate, fake and forged Incorporation certificate and fake and forged cancelled cheque in the name of the Plaintiff's Indian Subsidiary (L'Oreal India Pvt. Ltd.) as asked by Nicholas Healthcare Limited. Copy of the said email is detailed in the list of the documents and filed herewith.

D. That on 14th September 2021 at 06:53 PM, Defendant No. 1, sent 2 purchase orders to Nicholas Healthcare Limited and also informed that they will pick-up the order on 15th September 2021 at 11 AM. Copy of said E-mail and Purchase Orders are being filed herewith.

E. That accordingly, as informed by Nicholas Healthcare Limited, the orders were picked up from their warehouse by the Defendant No. 1.

F. That on 20th September 2021, Plaintiff received an email from Mr. Subodh Sharma, National Sales Head, Nicholas Healthcare Limited, seeking confirmation, whether the emails sent by Defendant No.1 belongs to the Plaintiff's Indian Subsidiary or if it was being misutilized by somebody else as Nicholas Healthcare Limited claimed that orders were picked up from them against the fake purchase orders. Plaintiff was also informed about the mobile number from which the Defendant No.1 used to contact Nicholas Healthcare Limited.

xxx xxx xxx”

10. Thus, it is seen that defendant no.1 by misrepresenting itself to be plaintiff, had sought to purchase products worth approximately ₹1 Crore from a third party, i.e., Nicholas Healthcare Limited. The defendant no.1 used the similar website as that of the plaintiff and reflected the mark of the trademark in its website.

11. This Court also takes note of the comparison of the website of the



plaintiff and the defendant no. 1, as given in the documents, filed along with the plaint, which is reproduced as under:

Comparison Chart of Plaintiff Said Website/Domain Name (www.loreal.com) and Defendant No. 1's Impugned Domain Name/Website (www.lorealglobal.in)



12. The above comparison of the plaintiff's official website



www.loreal.com with the defendant's impugned website www.lorealglobal.in shows that the defendant has replicated essential features, including, the plaintiff's logos and website layout. The similarity between the two websites is so striking that an average consumer with imperfect recollection would be unable to distinguish between the two. It appears that the intent behind such imitation is to mislead consumers into believing that the defendant's website is affiliated with the plaintiff.

13. This Court notes that the defendant's use of email addresses such as 'paresh.deshmukh@lorealglobal.in' and 'ashwini.r@lorealglobal.in' further demonstrates a deliberate attempt to impersonate the plaintiff's employees. The same seems to be a calculated effort to deceive third parties, such as Nicholas Healthcare Limited, into believing that they were transacting with official representatives or employees of L'Oréal.

14. Further, the fraudulent activities of the defendant, including, issuing fake purchase orders under the plaintiff's name, indicate *malafide* intent and constitute infringement of the plaintiff's rights in their trademarks.

15. It is to be noted that *vide* order dated 28th September, 2021, an *ex-parte ad-interim* injunction was granted in favour of the plaintiff restraining the defendant no. 1 and all other acting on their behalf, from using the website www.lorealglobal.in and email addresses paresh.deshmukh@lorealglobal.in, ashwini.r@lorealglobal.in, operations@lorealglobal.in or any other mail or website containing the plaintiff's trademark 'L'Oréal', along with other ancillary directions to the other defendants for compliance.

16. In the order dated 5th April 2022, it was noted that the defendant no. 1



was served *via* email, however, the defendant no.1 had failed to enter appearance in the suit.

17. This Court notes that in the present case, no written statement has come to be filed by any of the defendants. The right of the defendant nos. 1 to 3 to file written statement was closed vide order dated 01st November, 2022. Further, the defendant nos. 4 and 5 made a statement, as recorded in the order dated 9th May, 2023, that they do not wish to file any written statement.

18. Defendant no. 6 has filed its written statement, however, *vide* order dated 10th July, 2024, this Court allowed *I.A. No. 5308/2022*, through which defendant no. 6 was deleted from the Array of Parties.

19. Subsequently, this Court vide order dated 07th October 2024, while noting the fact that none had appeared for defendant no. 1 despite service and noting that no written statement had come to be filed, directed that the defendant no. 1 be proceeded *ex-parte*.

20. Accordingly, it is manifest that none of the defendants have either filed any written statement or affidavit of admission-denial of documents of the plaintiff.

21. Thus, in view of the aforesaid, it is clear that the submissions made on behalf of the plaintiff in the plaint, have remained uncontroverted and un-rebutted. Further, the documents filed by the plaintiff along with the plaint, also stand admitted, in the absence of any affidavit for admission-denial of documents.

22. Accordingly, no purpose shall be served in putting the matter for trial, when no defense has been raised by the defendants. Further, considering the facts and circumstances of the present case, this Court is of the view that the



defendants do not have any real prospect of succeeding in the present case.

23. This Court is, thus, of the view that the plaintiff is entitled to a summary judgement in its favour under Order XIII-A of the Civil Procedure Code, 1908. The plaintiff is also held entitled to costs.

24. Law is well settled that the Court is empowered to grant a summary judgement, where the defendants have no real prospect of successfully defending the claim, and the Courts may not hold trial, if the Court can make the necessary finding of fact on the basis of the facts and documents on record.

25. This Court notes that vide order dated 10th July, 2024, it has been recorded at the time of deletion of defendant no. 6/ National Internet Exchange of India (“NIXI”), that the plaintiff has no objection for defendant no. 6’s deletion provided that defendant no.6 is directed not to permit any domain name/website to open under the “*co.in*” and “*.in*” extensions consisting of the mark “Loreal”.

26. This Court notes that similar directions were issued with respect to “Burger King” vide order dated 15th September 2023, in *CS (COMM) 303/2022, Burger King Corporation Versus Swapnil Patil & Ors.*, in the following manner:

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9.

(v) *NIXI* is also directed not to permit any domain name/website to be opened under the ‘*co.in*’ or ‘*.in*’ extensions consisting of the mark ‘*Burgerking*’, where the words ‘*BURGER*’ and ‘*KING*’ appear together.

xxx xxx xxx”

27. In view of the discussion made hereinabove and the case established with respect to the fraudulent activities undertaken by the defendant, this Court exercises its power under Order XIII-A of CPC. Accordingly,



following directions are issued:

28.1 The present suit is decreed in favour of the plaintiff and against the defendant no. 1, in terms of paragraph 42 (a) and (d) of the plaint.

28.2 NIXI is directed not to permit any domain name/website to be opened under the 'co.in' and '.in' extensions consisting of the mark 'Loreal'.

28.3 The plaintiff is held entitled to a nominal cost of ₹1,00,000/-, which shall be paid to the plaintiff by the defendant no. 1, within a period of eight weeks.

28. Let decree sheet be drawn up.

29. The present suit, along with the pending applications, is accordingly, disposed of.

MINI PUSHKARNA, J

MARCH 4, 2025/kr

Corrected and released on:
29th March, 2025