



2025:DHC:2266



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

+ CS(COMM) 882/2023&I.A. 45489/2024
THE INDIAN HOTELS COMPANY LIMITEDPlaintiff

Through: Ms. Priya Adlakha with Ms. Sucharu
Garg and Ms. Shilpi Sinha, Adv.
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versus
ANKIT SETHI & ORS.Defendants

Through: Mr. Shivam Narang, Adv. for D-2
(Through VC)
Mr. Santosh Kumar Rout, SC with
Ms Dharna Veragi, Mr. B.N. Mishra
and Ms. Shilpa Chaurasia, Adv. for
D-3 (Through VC)
M: 9990432878
Email: skrlawfirms@gmail.com
Mr. Nilendu Vatsyayan, Adv. for D-4
(Through VC)
Ms. Nidhi Raman, CGSC with Mr.
Arvan Mittal and Mr. Debaish
Mishra, Adv. for D-5 and 6.
M: 8588916612
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Mr. Manish Kr. Tiwari, Adv. for D-8
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Email: advtiwarimanish@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% 03.03.2025

MINI PUSHKARNA, J (ORAL)

I.A. 45489/2024 (Application for Summary Judgment under Order



XIII-A Rules 3 & 6(1)(a) read with Section 151 of Code of Civil Procedure, 1908)

1. The instant application has been filed on behalf of the plaintiff under Order XIII-A, Rules 3 and 6(1)(a), read with Section 151 of Code of Civil Procedure, 1908 (“CPC”), seeking a summary judgment.
2. The plaintiff has filed the present suit for a decree of permanent injunction restraining infringement of its registered trademarks ‘GINGER’



(“GINGER trademarks”) in Class 43 of the Trade Marks Act, 1999 (“Trade Marks Act”) and the subsisting copyright in the original professional photographs of the plaintiff’s GINGER hotels, passing off, dilution, damages, rendition of accounts, delivery up, etc.

3. The present dispute pertains to the plaintiff’s grievance regarding the unauthorized use of its registered trademark ‘GINGER’ by the defendant nos. 1, 8, 9 and 10 through infringing websites, i.e., www.gingerhotelmumbai.info and www.hotelgingermumbai.info (“impugned websites”). The said defendants are stated to have engaged in infringing practices, by misrepresenting their websites as that of plaintiff’s official website www.gingerhotels.com, thereby, misleading users/customers into making payments for hotel bookings.

4. The case, as set up by the plaintiff, in the plaint, is as follows:

- 4.1. The plaintiff is a part of India’s biggest conglomerate, i.e., the ‘Tata Group of Companies’, and is a giant in the Indian hospitality sector that manages a huge portfolio of hotels, resorts, palaces, etc.

- 4.2. The plaintiff opened its first hotel, i.e., Taj Mahal Palace, Bombay



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(now, Mumbai) in the year 1903. As of today, the plaintiff, and its subsidiaries, together form a group of brands and businesses offering a world-class service in hospitality, which includes, TAJ, VIVANTA, SELECTIONS, GINGER and Ama Stays and Trails.

4.3. The plaintiff, since 2019, has been operating its parent website, i.e., www.ihcltata.com, which provides all the exhaustive information about the plaintiff and its subsidiaries. The said website is accessible all around the world and it redirects the users to the brands' dedicated websites for any further information and reservations.

4.4. In the year 2004, plaintiff launched its brand 'GINGER' hotels, in a new category of 'Smart Basics', with a primary objective of providing a superior service offering and consistent experience to travellers and thereby, transformed its 'Smart Basics' hotels into lean-luxe hotels.

4.5. The plaintiff also holds several registrations of the mark 'GINGER', both as a word mark and also in the form of various device marks, with the

earliest registration being for the device mark 'GINGER', i.e., , bearing registration no. 1407317, with the date of application being 19th December, 2005, in Class 43 of the Trade Marks Act.

4.6. Further, the plaintiff has also been operating a dedicated website www.gingerhotels.com on the internet since 23rd December, 2005, through which the plaintiff has been extensively promoting the 'GINGER' hotels and services therein.

4.7. In addition, the aforesaid website has its original professional photograph of each 'GINGER' hotel's property uploaded on it, which are the 'original artistic work' of the plaintiff, within the meaning of Section



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2(c) of the Copyright Act, 1957 (“**Copyright Act**”). The plaintiff is also the first owner of the said copyright, within the meaning of Section 17, and therefore, is also entitled to their exclusive rights in terms of Section 14(c) of the Copyright Act.

4.8. The plaintiff, further, has a widespread prominence and is connected with the public, through various social media platforms such as Instagram, Facebook, etc., and is also listed on several accommodation and travel booking websites, such as www.makemytrip.com, www.easemytrip.com, etc.

4.9. The plaintiff’s sub-brand, i.e., ‘GINGER’ hotels has now become one of the leaders in its segment, which is showcased by the Annual Report of Financial Year 2022-23 for the brand ‘GINGER’, wherein, the plaintiff’s revenue, was recorded to be more than Rs. 300 Crores, with Earnings Before Interest, Taxes, Depreciation and Amortization (“**EBITDA**”) of Rs. 120 Crores.

4.10. Plaintiff’s marks ‘GINGER’ due to the long and extensive use, promotional and advertisement activities through social media platforms, etc., have acquired goodwill and reputation, and are solely associated with the plaintiff in relation to its hospitality business and services therein.

4.11. On 26th November, 2023, the plaintiff, through an online portal www.locobuzz.com, which the plaintiff uses as its Brand Reputation Management (“**BRM**”) tool, came across the fake website www.gingerhotelmumbai.info, which prominently displayed the plaintiff’s registered trademark ‘GINGER’ at the homepage of the website. The said website purported to be a website through which the booking in the ‘GINGER’ hotels of the plaintiff could be secured. The impugned website,



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registered on 21st November, 2023, also displayed the original professional photographs of plaintiff's hotel, i.e., *GINGER Hotel, Andheri East, Mumbai*.

4.12. Before the suit was filed, the said impugned website, i.e., www.gingerhotelmumbai.info was redirected to a new fake domain name, i.e., www.hotelgingermumbai.info, which was registered only on 05th December, 2023.

4.13. The impugned domain names were registered, with the *malafide* and dishonest intent to deceive the plaintiff's customers, infringe upon the plaintiff's registered 'GINGER' trademarks and copyrights, and pass off the fake website as that of the plaintiff's. This has resulted in the dilution of the plaintiff's marks and caused significant damage to its business, goodwill and reputation.

4.14. Being aggrieved by the defendants' infringing actions in relation to plaintiff's mark 'GINGER', and also the misuse of plaintiff's contents and original photographs, the present suit has been filed.

5. This Court, *vide* order dated 13th December, 2023, granted an *ad interim ex-parte* injunction in favour of the plaintiff, thereby, directing the defendants to discontinue the use of domain names of the plaintiff and take down the impugned websites, i.e., www.gingerhotelmumbai.info and www.hotelgingermumbai.info.

6. Further, this Court, *vide* the aforesaid order, had also directed defendant no. 2 (Domain Name Registrar) to suspend access to the said impugned domains and disclose registrant details within a week. Defendant nos. 3 and 4 (concerned banks) were directed to freeze the bank accounts used for carrying out the infringing activities, submit the KYC documents and account statements, and block any other identified accounts. Further,



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defendant no. 7 (telephone service provider) was directed to block the mobile number, i.e., +91-9023915101, submit its KYC details, and block any additional numbers identified by the plaintiff.

7. This Court notes that, pursuant to the said directions, the defendant nos. 2, 3, 4 and 7 had disclosed the KYC details of the defendants involved in the operation of the said impugned websites. Consequently, plaintiff had filed the amended Memo of Parties, which is reproduced as under:

Newly impleaded Defendants	Defendant Names
Defendant No. 1	Mr. Ankit Sethi
(Replaced with 'John Does') (earlier Defendant 1A)	(Registrant of the domain names 'gingerhotelmumbai.info' and 'hotelgingermumbai.info')
Defendant No. 8 (earlier Defendant 1B)	Mr. Chandrashekhar (Holder of the Punjab National Bank Account No. 1570100100006061)
Defendant No. 9 (earlier Defendant 1C)	Mr. Sanjay Malviya (Holder of the Canara Bank Account No. 110151382525)
Defendant No. 10 (earlier Defendant 1D)	Mr. Vankar Ronak Kumar (Registrant of the Mobile No. +91 8864557622)

8. Further, this Court, *vide* the order dated 14th March, 2024, had also noted the fact that defendant no. 2 had suspended and blocked access to the said domain names. Additionally, it was noted that defendant nos. 3 and 4 had complied with the directions given in the order dated 13th December, 2023 to freeze the bank accounts of defendants. Furthermore, defendant no. 7 had also complied with the directions, given in the said order, by blocking access to impugned mobile number +91-9023915101, which was being used for carrying out the illegal activities.

9. Since the defendants had not filed any written statement, the *ad interim ex-parte* injunction in favour of the plaintiff, was made absolute *vide*



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order dated 14th March, 2024.

10. Consequently, this Court, *vide* order dated 13th August, 2024, closed the right of the defendants to file written statement as the maximum permissible period for filing written statement, had expired.

11. Accordingly, this Court proceeded against the defendant nos. 1, 8, 9 and 10, *ex-parte*, *vide* order dated 15th January, 2025.

12. At the outset, this Court notes that the plaintiff had adopted the mark 'GINGER', in the year 2005, and is also the registered proprietor of the 'GINGER' trademarks, i.e., word mark, as well as device marks. The registration of numerous marks of plaintiff in Class 43, is evident from the table, reproduced as under:

S. No.	Trademark	Registration No.	Date of application/ registration	Class
1.		1407317	19 th December 2005	43
2.	GINGER	3727471	15 th January 2018 (user claim: 19 th December 2005)	43
3.		3849551	1 st June 2018	43
4.		3858433	13 th June 2018	43
5.		3849552	1 st June 2018	43

13. This Court notes that the plaintiff has also been operating a dedicated website, i.e., www.gingerhotels.com, with the domain name registration dated 23rd December, 2005, which exclusively promotes and provides all the information about 'GINGER' hotels, such as, customer reviews, room



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availability, membership programmes, attractive offers, etc.

14. Further, this Court takes note of the submission made on behalf of the plaintiff that the plaintiff is also the owner of the original professional photographs of each 'GINGER' hotel property displayed on the said website and holds exclusive rights over these photographs under the Copyright Act, as they constitute the plaintiff's original artistic work.

15. In addition, the plaintiff has continuously and consistently used the mark 'GINGER' for its business activities over the years. The documents placed on record suggest that the plaintiff has also received numerous awards/recognitions, such as, 'Best Budget Hotel', 'Best Value Hotel - India', etc. Furthermore, the plaintiff's brand 'GINGER' has been featured by various media houses in the digital and print media, which is evident from the photographs attached with the plaint.

16. This Court takes note of the Annual Report for the Financial Year 2022-2023, highlighting the financials of the plaintiff, wherein, the plaintiff has earned revenue exceeding Rs. 300 Crores in the Financial Year 2022-23.

17. This Court also notes that the plaintiff has undertaken various measures to protect its intellectual property rights from being misused, whereby, the Trade Marks Registry has upheld the plaintiff's rights in the mark 'GINGER' in multiple opposition proceedings against third parties using similar or identical trademarks.

18. It is further noted that, defendants have unauthorizedly used the plaintiff's marks 'GINGER' on the home page of their impugned website, along with content and photographs from the plaintiff's official website of 'GINGER' hotels. The same is evident from a comparison of the plaintiff's official website with the defendants' impugned website, i.e.,



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www.gingerhotelmumbai.info. The comparison table of the plaintiff's official website and the defendants' impugned website, is reproduced herein below:

Photographs of the Plaintiff's GINGER Hotel at Andheri East, Mumbai, as available on the said website www.gingerhotels.com	Photographs uploaded on Defendant No.1's fake website www.gingerhotelmumbai.info
	
	
	



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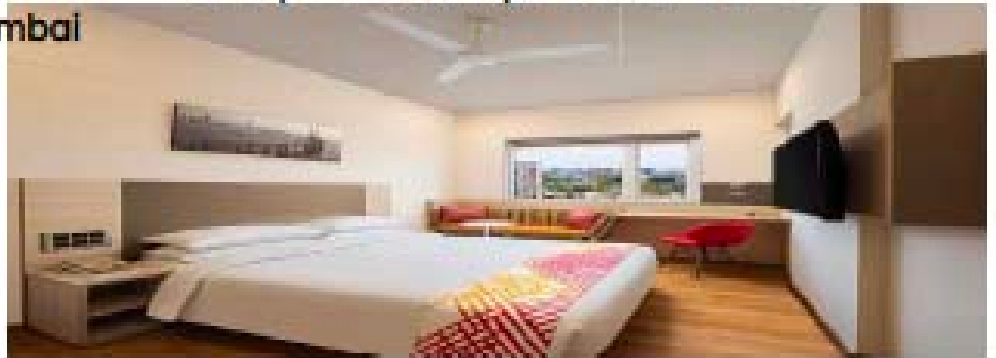


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19. The defendants have also been offering rooms at a 'GINGER' hotel in Mumbai, while mentioning the impugned mobile no. +91-9023915101 on their website for booking purposes, which is evident from the photographs/document, reproduced as under:

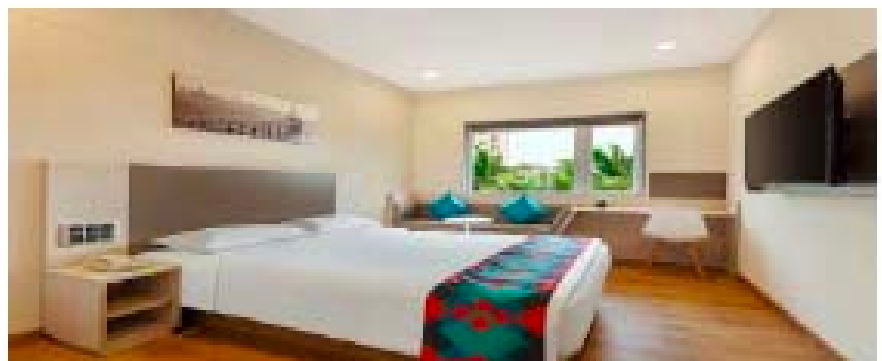
Ginger Mumbai



Ginger Superior

[Ask For Price](#)

[Click Here For Price](#)



Ginger Royal

[Ask For Price](#)

[Click Here For Price](#)



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7/8

20. In addition to the above, it is also pertinent to note that during the proceedings of the present suit, the KYC documents and bank statements filed by the proforma defendants, revealed that the registrant of the impugned domain names was defendant no. 1, i.e., Ankit Sethi, who had presumably designed and operated the impugned websites in collusion with



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defendant nos. 8, 9 and 10, to unlawfully profit by exploiting and misappropriating the plaintiff's mark 'GINGER'. The infringing actions of defendant no. 1 are further evident from the fact that he, using the email ID hackerankitsethi@gmail.com, operates a similar business of software development, website designing, and digital marketing under the name 'Hackploit'.

21. Upon perusal of the documents submitted by the proforma defendants, it is evident that defendant no. 8, i.e., Mr. Chandrashekhar, and defendant no. 10, i.e., Mr. Vankar Ronak Kumar, are interconnected, as they used the same Email ID, i.e., sharma7676123@gmail.com, in their KYC documents. The said Email ID was not only used for opening the bank account in Punjab National Bank, but also for purchasing the SIM card associated with the impugned mobile number, further indicating their involvement in the infringing activities. The use of the same Email ID in the KYC documents of defendant nos. 8 and 10, is evident from the table reproduced as under:

Name: Mr. Chandrashekhar Address: S/o Ram Bahadur, Bajeedpur, Sidhpura, Kasganj, Uttar Pradesh-207246 Contact no. +91 7064357465 Email: sharma7676123@gmail.com Branch: Kasganj Aadhaar Card No. 443250313735 PAN: CYPPEC2403Q	Name: Mr. Vankar Ronak Kumar Address: S/o Bhailalbhai, Indrad, Vadodra, Gujarat - 391510 Contact no: +91 8864557622 Email: sharma7676123@gmail.com
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22. Furthermore, this Court takes note of the transaction of Rs. 4332/-, made by one customer named Mr. Gulshan Agnani on 25th November, 2023, which was credited to the account of defendant no. 8, i.e., 1570100100006061. The said transaction was reflected as a 'credit entry' in the bank statement furnished by the defendant no. 3, i.e., Punjab National



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Bank. Moreover, the said bank statement for the period from 12th November, 2023 to 27th November, 2023, also clearly shows that defendant no. 8, i.e., Mr. Chandrashekhar, had a total amount credited to his bank account to the tune of Rs. 4,60,302/-.

23. Additionally, it is also pertinent to note that the plaintiff's officials had carried out an investigation on 28th November, 2023 and had booked a deluxe room and a super deluxe hotel room by making payments of Rs. 3750/- and Rs. 4650/-, respectively, to the bank account of defendant no. 9 registered in Canara Bank. The records, as furnished by Canara Bank, clearly establish that the said bank account belonged to defendant no. 9, as the transaction of Rs. 3750/- made by the plaintiff's investigator was reflected as a 'credit entry' in the bank statement of the said account of defendant no. 9.

24. Furthermore, as per the documents submitted by the Canara Bank, including, the statement of account of the aforesaid bank account of defendant no. 9, it is evident that defendant no. 9 had a total credited amount of Rs. 1,310,184/-, as reflected in the statement of account for the period between 05th January, 2023 to 05th January, 2024, thereby, reflecting the scale of infringing acts done by the defendant no. 9 in collusion with the other defendants in the present case.

25. Thus, it is apparent that defendant nos. 1, 8, 9 and 10 have been carrying out their infringing activities through use of fake domain names, which contains the trademark of the plaintiff's hotel. In the context of domain names, it has been held by Supreme Court that domain names have all the characteristics of a trademark. The use of the same or similar domain name may lead to a diversion of users, which could result from such users,



mistakenly accessing one domain name, instead of another. Where a domain name is used in connection with a business, the value of maintaining an exclusive identity becomes critical. Thus, in the case of *Satyam Infoway Ltd. Versus Siffynet Solutions (P) Ltd.*, (2004) 6 SCC 145, the Supreme Court, while dealing with the issue of whether internet domain names are subject to legal norms, which are applicable to other intellectual properties such as trademark, has opined as follows:

“xxx xxx xxx

11. Analysing and cumulatively paraphrasing the relevant parts of the aforesaid definitions, the question which is apposite is whether a domain name can be said to be a word or name which is capable of distinguishing the subject of trade or service made available to potential users of the internet.

*12. The original role of a domain name was no doubt to provide an address for computers on the internet. **But the internet has developed from a mere means of communication to a mode of carrying on commercial activity. With the increase of commercial activity on the internet, a domain name is also used as a business identifier. Therefore, the domain name not only serves as an address for internet communication but also identifies the specific internet site. In the commercial field, each domain-name owner provides information/services which are associated with such domain name. Thus a domain name may pertain to provision of services within the meaning of Section 2(1)(z). A domain name is easy to remember and use, and is chosen as an instrument of commercial enterprise not only because it facilitates the ability of consumers to navigate the internet to find websites they are looking for, but also at the same time, serves to identify and distinguish the business itself, or its goods or services, and to specify its corresponding online internet location** [Ryder, Rodney D.: Intellectual Property and the Internet, pp. 96-97.] . **Consequently a domain name as an address must, of necessity, be peculiar and unique and where a domain name is used in connection with a business, the value of maintaining an exclusive identity becomes critical.***

“As more and more commercial enterprises trade or advertise their presence on the web, domain names have become more and more valuable and the potential for dispute is high. Whereas a large number of trade marks



containing the same name can comfortably coexist because they are associated with different products, belong to business in different jurisdictions, etc., the distinctive nature of the domain name providing global exclusivity is much sought after. The fact that many consumers searching for a particular site are likely, in the first place, to try and guess its domain name has further enhanced this value [See Rowland, Diane and Macdonald, Elizabeth: Information Technology Law, 2nd Edn., p. 521.] .”

The answer to the question posed in the preceding paragraph is therefore in the affirmative.

13. The next question is, would the principles of trade mark law and in particular those relating to passing off apply? An action for passing off, as the phrase “passing off” itself suggests, is to restrain the defendant from passing off its goods or services to the public as that of the plaintiff's. It is an action not only to preserve the reputation of the plaintiff but also to safeguard the public. The defendant must have sold its goods or offered its services in a manner which has deceived or would be likely to deceive the public into thinking that the defendant's goods or services are the plaintiff's. The action is normally available to the owner of a distinctive trade mark and the person who, if the word or name is an invented one, invents and uses it. If two trade rivals claim to have individually invented the same mark, then the trader who is able to establish prior user will succeed. The question is, as has been aptly put, who gets these first? It is not essential for the plaintiff to prove long user to establish reputation in a passing-off action. It would depend upon the volume of sales and extent of advertisement.

14. The second element that must be established by a plaintiff in a passing-off action is misrepresentation by the defendant to the public. The word misrepresentation does not mean that the plaintiff has to prove any mala fide intention on the part of the defendant. Of course, if the misrepresentation is intentional, it might lead to an inference that the reputation of the plaintiff is such that it is worth the defendant's while to cash in on it. An innocent misrepresentation would be relevant only on the question of the ultimate relief which would be granted to the plaintiff [Cadbury Schweppes v. Pub Squash, 1981 RPC 429 : (1981) 1 All ER 213 : (1981) 1 WLR 193 (PC); Erven Warnink v. Townend, 1980 RPC 31 : (1979) 2 All ER 927 : 1979 AC 731 (HL)] . What has to be established is the likelihood of confusion in the minds of the public (the word “public” being understood to



mean actual or potential customers or users) that the goods or services offered by the defendant are the goods or the services of the plaintiff. In assessing the likelihood of such confusion the courts must allow for the “imperfect recollection of a person of ordinary memory” [Aristoc v. Rysta, 1945 AC 68 : (1945) 1 All ER 34 (HL)] .

15. The third element of a passing-off action is loss or the likelihood of it.

16. The use of the same or similar domain name may lead to a diversion of users which could result from such users mistakenly accessing one domain name instead of another. This may occur in e-commerce with its rapid progress and instant (and theoretically limitless) accessibility to users and potential customers and particularly so in areas of specific overlap. Ordinary consumers/users seeking to locate the functions available under one domain name may be confused if they accidentally arrived at a different but similar website which offers no such services. Such users could well conclude that the first domain-name owner had misrepresented its goods or services through its promotional activities and the first domain-owner would thereby lose its custom. It is apparent, therefore, that a domain name may have all the characteristics of a trade mark and could found an action for passing off.

xxx xxx xxx”

(Emphasis Supplied)

26. It is evident that the defendant nos. 1, 8, 9 and 10 are imposters, who have infringed the plaintiff’s registered trademarks and copyright. Right of the proprietor, in a domain name, warrants the same protection as those in a trademark. The said defendants are also guilty of passing off their fake websites as the plaintiff’s. The use of plaintiff’s registered trademark ‘GINGER’ as part of the impugned domain names by the defendants, and operating the fake websites on the impugned domain names, which display the plaintiff’s ‘GINGER’ trademarks prominently, are blatant acts of infringement and passing off. By unauthorizedly misusing the plaintiff’s original professional photographs of the plaintiff’s hotel, on the impugned



website, the said defendants have clearly infringed the plaintiff's copyright in the said photographs.

27. In view of the aforesaid, it is established that defendant nos. 1, 8, 9 and 10 are engaged in illegal activities, which are potentially criminal in nature, and are aimed at deceiving unwary consumers by making them pay through their website under the false pretense of securing reservations with the plaintiff's 'GINGER' hotels. Therefore, the aforesaid actions of the said defendants, amount to fraudulent misrepresentation and also constitute an attempt to misappropriate the plaintiff's goodwill and reputation in the market.

28. Based on the above discussion, in the present case, it is manifest that the actions of the defendant nos. 1, 8, 9 and 10 in adopting and using the plaintiff's marks, photographs and contents, forged receipts, clearly is *malafide*, deliberate and intentional. Thus, a clear case of infringement of trademarks and copyright is made out. The defendant's infringing actions are bound to cause deception and confusion in the minds of unwary consumers, who will assume the defendant's impugned websites to have originated from the plaintiff. Therefore, the plaintiff has been able to make a clear case not only of infringement of the plaintiff's trademarks, but of passing off, as well.

29. At this stage, this Court also notes that defendant nos. 1, 9 and 10 have neither appeared in the proceedings before this Court, nor have filed any written statement, despite service of summons. Further, defendant no. 8, even though, had appeared before this Court on several occasions i.e., 08th May, 2024, 18th July, 2024 and 30th July, 2024, but has chosen not to file any written statement rebutting the contentions of the plaintiff. Therefore, it is



manifest that said defendants, in the present case, have no defence on merit to put forth before this Court. As such, for all purposes, the pleadings made by the plaintiff, herein, are deemed to have been admitted by the defendants.

30. Considering the aforesaid discussion, this Court is of the view that the plaintiffs are entitled to a decree under Order XIII-A of the Commercial Courts Act, 2015, as the said provision empowers this Court to pass a summary judgment, without recording evidence, if it appears that the defendant has no real prospect of defending the claim, and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. Considering the facts of the case, this Court is of the view that a clear case of infringement and passing off, is made out in the present case. The defendant nos. 1, 8, 9 and 10 have no right to publish the photographs and other materials, in which the plaintiff has copyright. Accordingly, no purpose would be served in directing the plaintiffs to lead *ex-parte* evidence. The defendants have no real prospect of defending the claim of the plaintiffs, in the absence of any written statement.

31. Thus, the present case is a fit case for passing a summary judgment in terms of Order XIII-A CPC, as applicable to commercial disputes, read with Rule 27 of the Delhi High Court Intellectual Property Division Rules, 2022. The plaintiff is entitled to a decree of permanent injunction in its favour.

32. In so far as the relief for damages, as sought by the plaintiff in amended Prayer Clause 45 (h) is concerned, this Court notes that, in plethora of cases, damages have been granted on account of the defendants not appearing deliberately, despite having the knowledge of the proceedings.

33. At this stage, reliance is placed on the judgment in the case of ***Cartier International A.G. & Others Versus Gaurav Bhatia & Others, 2016 SCC***



OnLine Del 8, wherein, it has been opined as under:

“xxx xxx xxx

65. *It appears from the conduct of the defendants who have deliberately stayed away from the present proceedings with the result that an enquiry into their accounts for determination of damages could not take place.*

66. It is well settled that damages in such cases must be awarded and a defendant, who chooses to stay away from the proceedings of the Court, should not be permitted to enjoy the benefits of evasion of court proceedings. Any view to the contrary would result in a situation where the defendant who appears in Court and submits its account books would be liable for damages, while a party which chooses to stay away from court proceedings would escape the liability on account of failure of the availability of account books.

xxx xxx xxx

69. With regard to the relief of damages as claimed by the plaintiffs in para 44(g) of the plaint, this Court has previously granted both exemplary and punitive damages against the defendants in ex-partematters of similar nature. In Time Incorporated v. Lokesh Srivastava, (supra) while awarding punitive damages of Rs. 5 lakhs in addition to compensatory damages also of Rs. 5 lakhs, Justice R.C. Chopra observed that “time has come when the Courts dealing in actions for infringement of trademarks, copyrights, patents etc., should not only grant compensatory damages but also award punitive damages with a view to discourage and dishearten law breakers who indulge in violation with impunity out of lust for money, so that they realise that in case they are caught, they would be liable not only to reimburse the aggrieved party but would be liable to pay punitive damages also, which may spell financial disaster for them.”

70. Further, this Court in Microsoft Corporation v. Rajendra Pawar, 2008 (36) PTC 697 (Del.) decided on 27th July, 2007 has held “Perhaps it has now become a trend of sorts, especially in matters pertaining to passing off, for the defending party to evade court proceedings in a systematic attempt to jettison the relief sought by the plaintiff. Such flagrancy of the Defendant's conduct is strictly deprecatory, and those who recklessly indulge in such shenanigans must do so at their peril, for it is now an inherited wisdom that evasion of court proceedings does not de facto tantamount to escape from liability. Judicial process has its own way of bringing to tasks such erring parties whilst at the same time ensuring that the aggrieved party who has knocked the doors of the court in anticipation of justice



is afforded with adequate relief, both in law and in equity. It is here that the concept of awarding punitive damages comes into perspective”.

xxx xxx xxx”

(Emphasis Supplied)

34. In the present case, the defendant nos. 1, 8, 9 and 10 have blatantly infringed the trademarks of the plaintiff and have also failed to appear before this Court. Furthermore, the illegal and fraudulent activities of the defendants may not only cause incalculable loss to the plaintiff, but also to the large number of users/customers accessing the plaintiff’s website, i.e., www.gingerhotels.com, who may be under an impression that the defendants’ impugned websites, i.e., www.gingerhotelmumbai.info and www.hotelgingermumbai.info are from the sub-brand of the plaintiff company, and consequently, affecting the business, goodwill and reputation associated with the plaintiff’s mark.

35. Accordingly, in the facts and circumstances of the present case, including the scale of the infringing activities undertaken by defendant nos. 1, 8, 9 and 10, this Court is of the view that actions of defendant nos. 1, 8, 9 and 10 not only warrant, but also necessitates, the imposition of damages.

36. In view of the aforesaid, the present application is allowed and the suit is decreed in favour of the plaintiff and against the defendants, in terms of the following directions:

- I. Decree of permanent injunction is passed in favour of the plaintiff, in terms of paragraph 45 (a), (b), (c), (e) and (f) of the amended prayer as filed on 25th February, 2025.
- II. The plaintiff is entitled to costs and damages to the tune of Rs. 20 Lacs, payable by defendant nos. 1, 8, 9 and 10, jointly and severally.



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III. The aforesaid amount shall be paid within a period of four months from today.

37. Decree sheet be drawn up.

38. The present suit, along with pending application, is accordingly disposed of.

MINI PUSHKARNA, J

MARCH 3, 2025/kr

Corrected & Released on:
02nd April, 2025