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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO.160 OF 2015**

**IN**

**SUIT (L) NO.44 OF 2015**

Farid Abdul Latif Noorani ...Applicant/Plaintiff

vs

Mohamed Aboobucker And 3 Ors. ...Defendants

.....

Mr. Venkatesh Dhond a/w. Rashmin Khandekar, Mr. Hemant Thadhani and Mr. Rahul Dhote, i/b. Krishna & Saurastri Associates, for the Plaintiff.

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**CORAM : S.C. GUPTE, J.**

**DATED: JANUARY 21, 2015**

**P.C. :**

. This is an infringement and passing off action in respect of a registered trade mark. For the time being, the Plaintiff presses his application for ad-interim relief in respect of infringement.

2. The Plaintiff is the registered Proprietor of the trade mark **Haji Ali Juice Centre** in class 43 in respect of services relating to providing of food, drink, juices etc. The registration certificate of the Plaintiff records that the trade mark has been in use of the Plaintiff since 1 April 1976 and grants registration with effect from 10 March 2010. The Plaintiff also holds a separate registration in class 32 for the trade

mark **Haji Ali Juice Centre** together with a device of an Apple depicted in a particular manner. The Plaintiff has given details of the extensive sales of the products/services under the registered trade mark **Haji Ali Juice Centre** showing thereby that the trade mark has assumed an enormous goodwill and reputation in the market.

3. By an agreement for the use of the registered trade mark together with its goodwill dated 1 June 2009, the Plaintiff granted permission/license to the Defendants to use the Plaintiff's brand name **Haji Ali Juice Centre** together with its logo and design along with the goodwill attached to the brand name. This license was granted to the Defendants for opening of a restaurant in Chennai. A similar license was granted by the Plaintiff to the Defendants for opening outlets in U.A.E. It is the case of the Plaintiff that, though the agreement came to an end by efflux of time in 2011, the parties, pending negotiations in respect of further agreement to be executed between the parties, extended the same from time to time. The Plaintiff has produced Minutes of Meeting dated 17 May 2014 signed by the representative of the Plaintiff as also the Defendants recording certain broad terms of continuation of the license granted by the Plaintiff to the Defendants in respect of the use of the trade mark. In pursuance of these Minutes of Meeting, further correspondence appears to have ensued between the parties, during which some drafts of the final agreement were exchanged between the parties. It is the Plaintiff's case that no agreement could be finalised between the parties and, in the premises, the license between the parties has been terminated. It is the case of the Plaintiff that the Defendants is still found to be using the trade mark **Haji Ali Juice**

**Centre** together with the device mark. The material produced by the Plaintiff along with the plaint also shows that the Defendants continue to claim an association with the Plaintiff and his business.

4. The Notice of Motion together with the plaint and notice of today's ad-interim application has been duly served by the Plaintiff on the Defendants. An affidavit in proof of such service has been tendered by the learned Counsel for the Plaintiff. Defendants are absent despite service.

5. The Plaintiff's case set out above is borne out by the material produced along with the plaint. *Prima facie* the Defendants are permitted users of the word and device marks, of which the Plaintiff is the registered proprietor. The Defendants cannot be permitted to use the same after expiry of the licence granted by the Plaintiff. In the premises, a *prima-facie* case for grant of relief in terms of prayer clause (a) of the Notice of Motion is made out.

6. Accordingly, there will be an ad-interim injunction in terms of prayer clause (a) until further orders as set out below :-

(a) that pending the hearing and final disposal of suit the Defendantss by themselves, through their partners, proprietors, servants and agents and/or otherwise howsoever be restrained by an order and injunction of this Hon'ble Court from using the name and mark "Haji Ali Juice Centre" and/or the mark "Taste of Mumbai Haji Ali" and/or the mark "HajialiJuices" and/or any other word/expression/label identical with and/or deceptively

similar thereto in any manner whatsoever, including by using it as part of domain name or use in meta-tags or otherwise on the internet or any other such form of use, in relation to services relating to providing of food and drink, juices, soft drinks, snacks, pies, sandwich, burger, pizza, roll, fruit and vegetable juices, fruit drinks, soft drinks, syrups and other preparations for making beverages, catering services, restaurants, juice centre, providing of food/juice counters, hospitality services provided in hotel, motel, resorts, cafes, inns, pubs, spas, bars being services, and allied services so as to infringe the Plaintiff's registered trade marks bearing nos. 1933379 and 563477 in class 43 and 32 being Exhibit F1 & F2 hereto.

7. Reply to the Notice of Motion to be filed within a period of three weeks from today. Rejoinder, if any, within two weeks thereafter. Place the Notice of Motion for hearing on 10 March 2015.

( S.C. GUPTE, J. )