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

\+ **C.O.(COMM.IPD-CR) 174/2022**

DELHI PUBLIC SCHOOL SOCIETY ..... Petitioner

Through: Mr. Puneet Mittal, Senior Advocate with Mr. Rupendra Pratap Singh, Ms. Sakshi Mendiratta, Mr. Mohit Chandras, Ms. Varnika Gupta and Mr. Siddharth Saxena, Advocates.

versus

DELHI PUBLIC SCHOOL PVT LTD. AND ANR ..... Respondents

Through: Mr. Neeraj K. Gupta, Mr. Shivang Srivastava and Mr. Ranjeet Kumar Singh, Advocates for R-1.
Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat and Mr. Alexander Mathai Paikaday, Advocates for Registrar of Trademarks for R-2.

\+ **C.O.(COMM.IPD-CR) 783/2022**

M/S DELHI PUBLIC SCHOOL SOCIETY ..... Petitioner

Through: Mr. Puneet Mittal, Senior Advocate with Mr. Rupendra Pratap Singh, Ms. Sakshi Mendiratta, Mr. Mohit Chandras, Ms. Varnika Gupta and Mr. Siddharth Saxena, Advocates.

versus

M/S DELHI PUBLIC SCHOOL PRIVATE LIMITED AND ANR ..... Respondents

Through: Mr. Neeraj K. Gupta, Mr. Shivang

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Srivastava and Mr. Ranjeet Kumar Singh, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 17.01.2023

1. The above-captioned petitions seek identical relief in respect of the same copyright, and are thus, being disposed of by way of a common order.

2. Petitioner is the owner of copyright in artwork(s) titled "DELHI PUBLIC SCHOOL LOGO" registered under registration Nos. A-95324/2012 and A-111554/2014 [*hereinafter,* "***Petitioner's copyrights***"]. It seeks cancellation/ removal of registration No. A-103775/2013 in favour of Respondent No. 1 for copyright in artwork titled "DELHI PUBLIC SCHOOL PVT. LTD. (LABEL) WITH A LOGO HOLDING A MASHALL WITH A TAG LINE SERVICE BEFORE SELF" [*hereinafter,* "***impugned copyright***"], under Section 50 of the Copyright Act, 1957.

3. Mr. Puneet Mittal, Senior Counsel for Petitioner, submits that registration of impugned copyright is in violation of decree dated 29th October, 2014 in CS(OS) 1521/2008 whereby Respondent No. 1 has been restrained from using the impugned copyright, which is an exact replica of Petitioner's copyrights. Petitioner has been continuously using and commercially reproducing, publishing and making copies etc. of its copyrights, since its adoption in 1948. That apart, it also possesses registration of variants of trademarks "Delhi Public School", "DPS" and

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 in classes 16, 35, 36, 41 and 42.

4. Heard the counsel and perused the record. A comparison chart of Petitioner's copyrights and impugned copyright is drawn hereunder:

PETITIONER'S COPYRIGHTS	*IMPUGNED COPYRIGHT*
 *(Registration No. A-95324/2012*)	
 *(Registration No. A-111554/2014)*	

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5. The rival copyrights are nearly identical, comprising of the phrases "Delhi Public School" and "Service before Self" as well as sketch of a hand holding a flambeau and the artistic strokes around it. Petitioner's copyright registration under No. A-95324/2012 dated 21st December, 2012 precedes the registration of impugned copyright on 26th August, 2013. Several documents evidencing use of Petitioner's copyrights have been placed on record, which are not contradicted. Further, Mr. Neeraj K. Gupta, counsel for Respondent No. 1 – Delhi Public School Private Limited, has informed that said company has been struck off the records of Registrar of Companies *w.e.f.* 30th October, 2019.

6. Another pertinent fact supplementing Petitioner's case is the aforesaid decree dated 29th October, 2014. Petitioner had earlier filed a suit concerning infringement of its trademarks "DPS", "Delhi Public School', logo and crest, where Director of Respondent No. 1 *viz.* Mr. Sauraubh Dutta, who is also mentioned as the author of impugned copyright in the registration certificate, was arrayed as Defendant No. 2. By the said decree, Respondent No. 1 (Defendant No. 2 therein) was prevented from the following:

> *"a) offering for service, advertising, offering for sale, adopting, using the mark 'DPS', words 'Delhi Public School', logo and crest of plaintiff or any other deceptive variant thereof and/or doing anything or taking any step which is likely to lead the pasing off the business and products of the defendants as those of the plaintiff;*
>
> *b) directly or indirectly reproducing and/or using the get up, layout, design, appearance, colour scheme and arrangement of features of the plaintiff's mark 'DPS', words 'Delhi Public School', logo and crest, thereby amounting to infringement of plaintiff's rights in the said mark, crest and logo;"*

7. Evidently, proprietor of Respondent No. 1 herein, by way of a court decree, was restrained from using, either directly or indirectly, any get up,

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layout, design, appearance, colour scheme, arrangement of features etc. which would violate Petitioner's (Plaintiff therein) rights.

8. For the foregoing reasons, registration of copyright titled "DELHI PUBLIC SCHOOL PVT. LTD. (LABEL) WITH A LOGO HOLDING A MASHALL WITH A TAG LINE SERVICE BEFORE SELF" *bearing* No. A-103775/2013, in favour of Respondent No. 1 is patently wrong as the Petitioner is the original author thereof. Accordingly, the same is cancelled.

9. The Registrar of Copyrights is directed to reflect the effect of this order in its register as also on online platform(s), within two weeks from today.

10. Let a copy of the order be forwarded to Registrar of Copyright for compliance through counsel for Petitioner.

11. With the above directions, present petition is disposed of.

SANJEEV NARULA, J

JANUARY 17, 2023
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