Defendant restrained by The Delhi High Court from opening any new store with the name "Health & Glow"

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The matter HEALTH & GLOW PRIVATE LIMITED v. RAJENDRA CHOUDHARY was listed before the Delhi High Court on 10th October 2018 leading to Defendant being restrained from opening any new store with the name "Health & Glow" or any other deceptively similar variant thereof. In June, 2018, the Plaintiff (Health & Glow Pvt Ltd) first came to know about the adoption and use of the HEALTH & GLOW label by the defendant, from credible market sources. The cause of action arose once again when the independent investigator visited the premises of the Defendant and confirmed his involvement in illegal/infringing activities using the Plaintiff's well-known trademark HEALTH & GLOW. The Plaintiff has sold quality goods and rendered quality services under the name and style of HEALTH & GLOW stores since 1997 and offers a wide range of Colour Cosmetics, Skin Care, Hair Care, Herbal Products, Fragrances and Beauty Accessories, Aromatherapy products, Men's Cosmetics, Baby care, Personal care items, and Toiletries.

1. The HEALTH & GLOW trademark has been constantly nurtured and strengthened by the Plaintiff and performs a source identifying function denoting the goods and services under the said mark as originating exclusively from the Plaintiff. The Plaintiff is additionally the owner of copyright in the stylized manner of representation of its mark health & glow.
2. We apprised the Judge of the facts of the Plaintiff's case, the Plaintiff's Trademark registrations, usage etc. and the Defendant's unauthorised use of well known HEALTH & GLOW mark; that was identical or deceptively similar to the plaintiff's mark in relation to the same or similar business, products and services, which is bound to cause confusion and deception resulting in trademark infringement and passing off.
3. We through our submissions proved to the judge that HEALTH & GLOW mark is a well-known trademark in relation to the Plaintiff's goods and services in India and the well-known character of the said mark is brought out by various factors.
4. HEALTH & GLOW mark has earned a tremendous reputation and goodwill throughout India. The mark HEALTH & GLOW is catchy and memorable and has acquired distinctiveness in relation to the Plaintiff's services

We also informed the Judge regarding the previous orders of the Madras High Court and how the opposite party changed their name when the matter was pending before the Hon'ble Supreme Court. The Hon'ble Judge whilst appreciating our arguments noted the following facts in particular:

- The Defendant has been using the trade name "Health & Glow Wellness" for about 5 years; and

- Their use is confined only to the store name and bills etc. and they are not dealing in any product bearing the said mark.

In light of the above, the Defendant has been restrained from opening any new store with the name "Health & Glow" or any other deceptively similar variant thereof. The Judge orally noted that as the Defendant's use of "Health & Glow" is limited to the name of their store, in all likelihood, he might agree to change the name. The Defendant has therefore been directed to be present in court on the next date of hearing. The next dates in the matter are as follows:

- 22nd November 2018 before Court; and
- 9th January 2018 before the Joint Registrar for completion of pleadings.

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