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DASTI

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

No.....13889/1L.....DHC/Orgl.-I/A-I

Dated.....21.9.08

From:

The Registrar  
Delhi High Court  
New Delhi.

To:

Mr. Puneet Mittal  
Counsel for Plaintiff  
241, Lawyers Chamber  
High Court of Delhi  
New Delhi.

Sub. : **CS(OS) No. 1518/2008**

Delhi Public School Society  
Versus

....Plaintiff

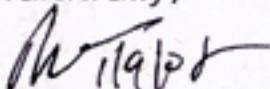
DPS Trust & Ors.

....Defendants

Sir,

I am directed to forward herewith for information and necessary compliance a copy of order dated **28.08.2008** passed by Hon'ble Mr. Justice H.R. Malhotra, of this Court.

Yours faithfully,



Admn. Officer (J) O-I  
for Registrar

Encl.: Copy of Order dated **28.08.2008** passed by Hon'ble Mr. Justice H.R. Malhotra

Allowed, subject to just exception. Original documents be filed within one week.

The application is disposed of.

**C.S. (OS) No.1518/2008**

Suit be registered.

Summons of the suit be issued to the defendants by ordinary process as well as registered post on filing of process fee and registered A.D. cover returnable before the Joint Registrar for completion of pleadings and filing of documents and their admission/denial on 30<sup>th</sup> September, 2008.

List before court on 14<sup>th</sup> January, 2008.

**I.A. No.9209/2008**

This is an application made by the plaintiff under Order 39 Rules 1 & 2 CPC seeking ex-parte ad-interim injunction against the defendants from using the mark 'DPS', words 'Delhi Public School' owned by the plaintiff since 1948 and its logo. The objective of the defendants by creating trust known as DPS trust was for promoting education, health, self-employment and their prime objective behind establishment of such trust was utilization of immense academic experience of Delhi Public School.

It is urged by learned counsel for the plaintiff that by adopting such mark and logo which is exactly similar to that of the plaintiff's mark "DPS" Delhi Public School and also their being the objective of the defendant trust to promote education indicates that defendants fraudulently hit upon this mark with a view to cause confusion amongst the

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EXAMINER



students, parents and educationist as if the defendants' trust have its origination from the plaintiff and further gives wrong impression to the public at large as if this defendants' trust is closely associated to the plaintiff's society.

In this regard my attention has been drawn to documents appearing at page 36 which deals with the DPS trust started by the defendants in the year 2003.

I have looked into this document. Reading of this document indicates that not only defendants started this trust with a view to promote education amongst the students but they have made an abortive attempt to have close proximity with that of the plaintiff as this documents further reads that defendants have 54 years of excellence in education inspired them to initiate a system that could reach out to common people and give them due benefit. At one point they say that they have started this trust in the year 2003 and in the same breathe the defendants claims its foundation for 54 years.

As regards logo, I have compared the two logos one of the plaintiff and another of defendants. It makes me to believe that *prima facie* it is a fraudulent act on the part of the defendants as these two logos one of the plaintiff and another adopted by the defendants are exactly similar.

Having heard learned counsel for the plaintiff and after pursuing the documents on record, I am of the opinion that sufficient ground exists for granting *ex parte ad interim injunction* as defendants seem to have encroached upon the mark of the plaintiff with a dishonest intention to cause confusion amongst the educationist, parents and the school children.

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Therefore, defendants, their partners, proprietors, owners, officers, servants, agents, delegates representatives shall remain restrained from using their mark 'DPS', words 'Delhi Public School' and the offending logo till further orders.

Compliance of Order 39 Rule 3 CPC be made within seven days.

A copy of this order be given DASTI.



H.R. MALHOTRA, J.

AUGUST 28, 2008

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