

19

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 1444/2015 & IA No.10722/2015

DABUR INDIA LIMITED

..... Plaintiff

Through Mr.Hemant Singh, Ms.Mamta Jha
Mr.Manish K.Mishra and Mr.Waseem Shuaib
Ahmed, Advocates

versus

ZEE HYGINE PRODUCTS PRIVATE LIMITED

..... Defendant

Through Mr.N.Mahabir, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% 27.05.2015

1. Pursuant to the order dated 19.5.2015, on which date, learned counsel for the defendant had stated that his client is ready and willing to modify the existing trade dress and packaging of its product being manufactured and sold under the name, "Cocoplus Amla Hair Tonic" so that the same is clearly distinguishable from the plaintiff's trade dress/artistic work in respect of its product being manufactured and sold under the name, "Dabur Amla Hair Oil", counsel for the defendant hands over an affidavit dated 27.5.2015, executed by Mr.Pankaj H.Bhanushali, Director of the defendant company, with a copy to the other side. The said affidavit is taken on record.

2. As per the said affidavit, the defendant acknowledges the ownership and proprietorship of the plaintiff in the packaging and undertakes not to use the said packaging which is similar to the packaging of the plaintiff's product, 'Dabur Amla'. The defendant has further stated that it does not have any stock of the product, "Coco Plus Amla" bearing the packaging against which the plaintiff has filed the present suit and it has undertaken not to use the questioned packaging of its product, "Cocoplus Amla" in respect whereof the plaintiff has instituted the present suit.

3. The defendant has also enclosed with the affidavit, a snapshot of the proposed changed packaging of its product, "Cocoplus Amla", which counsel for the plaintiff states on instructions is acceptable to his client, it being distinguishable from the plaintiff's trade dress/packaging.

4. Counsel for the defendant states that the defendant has no objection if the suit is decreed in terms of the prayers made in para 29(a), (b) & (c) of the plaint on the condition that the plaintiff be called upon to give up the relief as prayed for in para 29(e) & (f).

5. Learned counsel for the plaintiff states that in view of the undertakings given by the defendant in the affidavit dated 27.5.2015, the plaintiff gives up the relief as prayed for in para 29 (e) & (f) of the

plaint. He however adds that the extract of the Board of Resolution dated 1.4.2015 enclosed at page 4 of the affidavit dated 27.5.2015 is a little vague and the defendant be called upon to file an additional Resolution, authorizing the deponent of the affidavit to file the undertakings as contained in the said affidavit.

6. Counsel for the defendant states that needful shall be done within two weeks, with a copy to the other side.

7. While permitting the defendant to file the extract of the Board of Directors' Resolution as mentioned above within two weeks, with a copy to the other side, the suit is decreed in terms of the prayers made in para 29(a) (b) & (c) of the plaint, while leaving the parties to bear their own expenses.

8. The suit is disposed of, along with pending application.

File be consigned to the record room.

HIMA KOHLI, J

MAY 27, 2015

mk/sk