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

+ CS(OS) 1907/2015 & IAs No.13308 & 13309/2015

RAJESH KUMAR AGRAHARI
TRADING AS AGRAHARI MASALA UDYOG Plaintiff
Through : Mr. S.K.Singh, Mr.Sudhir Balyan and
Mr.D.K.Yadav, Advocates

versus

SUBHASH MASALA INDUSTRIES Defendant
Through : Mr.H.P.Singh, and
Mr.Navroop Singh, Advocates

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

% **ORDER**
05.08.2015

1. Vide order dated 8.7.2015, the statement of the counsel for the defendant was recorded to the effect that his client has been continuously using the infringing packaging, in which the plaintiff claims a copyright, for the past eight years. He had also disputed the assertion made by the counsel for the plaintiff that the plaintiff had been using the very same packaging, subject matter of the present suit, ever since the year 1998. However, both sides had asked for some time to produce the relevant documents in support of their respective submissions for the court to take a *prima facie* view in the matter.

2. Mr.H.P.Singh, learned counsel for the defendant states that he has filed a set of documents under index dated 31.7.2015, with copies to the other side. He submits that he had also handed over the proposed packaging to the counsel for the plaintiff for him to obtain instructions from his client, as to whether it is acceptable.

3. Mr.S.K.Singh, learned counsel for the plaintiff responds by stating that he has examined the proposed packaging furnished by the other side and his only objection is to the colour combination used in respect of the lettering, "Mishran Garam Masala" which are printed in white and highlighted on a black background. He submits that if the lettering's colour combination is changed from white on black to some other colour combination so that the defendant's packaging can be easily distinguished from the plaintiff's packaging, it would resolve the entire issue.

4. Counsel for the defendant states that his client has no objection to the aforesaid suggestion and the defendant is agreeable to changing the white on black colour combination for the lettering, "Mishran Garam Masala" to white on red, as is already being used elsewhere on the proposed packaging. The said suggestion is acceptable to the other side.

5. Counsels for the parties have signed on the back of the proposed

packaging in token of accepting the proposed packaging with the alternation as noted above and state that the present suit may be disposed of in terms of the consensus arrived at between the parties.

6. At this stage, counsel for the defendant states that it would take a period of two months for his client to change the present packaging to the one that has been accepted by the other side and to enable him exhaust the existing stock.

7. Counsel for the plaintiff states he is agreeable to the aforesaid timeline on the condition that the details of the existing stock must be furnished to the plaintiff.

8. Needful shall be done by the defendant by way of an affidavit, within two weeks from today, with a copy to the other side. Further, the defendant shall enclose with the affidavit, the altered packaging as noted above.

9. The suit is decreed, in terms of the settlement arrived at between the parties and recorded hereinabove. The suit is disposed of, along with the pending application.

HIMA KOHLI, J

AUGUST 05, 2015

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