

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMARY SUIT NO. 2240 OF 2009
WITH
SUIT NO. 133 OF 2013
WITH
SUIT NO. 349 OF 2013**

Anchor Daewoo Industries

.. Plaintiff

Vs.

ART Advertising and Marketing
(India) Pvt. Ltd. & Anr.

.. Defendants

Mr.Amit Jamsandekar a/w. Mr.Amarjit Singh, Mr.Mayur Gala for plaintiff in SS/2240/2009 & S/349/2013 for plaintiff and Mr.Amit Jamsandekar a/w. Mr.Amarjit Singh, Ms. Smita Ranpise for plaintiff in S/133/2013.

Mr.Rohaam Cama a/w. Ms.Priyanka Jangid i/b Law Juris for defendants in all suits.

CORAM : K.R.SHRIRAM, J.

DATE : 26TH JULY, 2016

P.C.

1 The counsel for the plaintiff and the counsel for the defendants have requested the following order, by consent, be passed in the three suits mentioned above :-

1. In furtherance of the Orders dated 17th June 2016 and 21st July 2016 Affidavits of Mr. Prakash Goplani, Mr. Colin Misquitta, Smt. Nisha Goplani, Mr. Andrew Misquitta, Smt. Sarika Jangam, Smt. Smruti Chindarkar, Smt. Sharvari Kulkarni and Smt. Vijaya Jadhav who were inter alia the accused in FIR No. 16/2011 of Crime Branch, EOW, Mumbai

were tendered in the Court. The advocates for the defendants have on 21/7/2016 tendered a corresponding Affidavit of Mr. Indur Chowdhry who was present in Court. The nine Affidavits were taken on the record of this court at the request of the advocates for both sides and marked 'X' for identification as per the Order dated 21st July, 2016 passed by this Court (Coram : G. S. Patel J). The deponents of the above 8 affidavits and so also Mr. Indur Chowdhry have each, inter alia, undertaken to this Court that they have no claims against each other relating to the subject matter of the present suits and criminal prosecution under FIR No. 16/2011 of EOW, Crime Branch, Mumbai for the reasons stated in the above referred affidavits. The deponents of the aforesaid 9 affidavits have further undertaken to the Court that they have no claims of whatsoever nature against each other. The undertakings are accepted as undertakings given to this Court. The Advocates for both sides have placed before the Court marked 'X-2' for identification an Order dated 25/7/2016 of the Ld. Addl. Chief Metropolitan Magistrate's, 47th Court at Esplanade, Mumbai along with the 'C' Summary Report and Pursis accepting the request of the Defendants herein of not pressing their Protest Petition against 'C' Summary Report No. 03/Summary/2015 and accordingly, accepting the said 'C' Summary report and putting an end to the criminal proceedings under FIR No.16/2011 of Crime Branch, EOW, Mumbai.

2. The advocate for the Defendants on instructions of Mr. Indur Chowdhry who is present in court states that the

Defendants do not claim ownership of the copyright of the Plaintiffs in respect of the material forming the subject matter of Suit No. 133 of 2013 and will not make any such claim in future. The copyright in the works subject matter of Suit No. 133 of 2013 shall exclusively vest with the Plaintiffs. This statement is accepted as an undertaking to the court.

3. In light of the above, the learned Advocates appearing for the Plaintiff in Suit No. 133 of 2013, Suit No. 349 of 2013 and Summary Suit No. 2240 of 2009 submit that the Plaintiffs/their sister concerns are not pressing for any reliefs in the above suits. Accordingly, the above suits are disposed of with no order as to costs. All interim/interlocutory proceedings in the 3 suits including the various Notices of Motion filed by the parties accordingly stand disposed with no order as to costs and all orders passed therein are vacated with immediate effect. The Advocate for the Defendants submits that in light of the disposal of the suits, Appeal No. 49/2014 filed by the Defendants in Suit No. 349 of 2013 does not survive and the Advocate for the Defendants undertakes to withdraw the same within one week from today. This undertaking is accepted.

4. The Plaintiffs shall be permitted to withdraw the sum of Rs. 12,29,41,047.52 crores along with accrued interest thereon presently deposited with the Prothonotary and Senior Master of this court under an order dated 13/11/2013 passed in Notice of Motion (L) No. 2108 of 2013 in Suit No. 349 of 2013 by this court (S. J. Kathawala J.). The Defendants have no objection

to the withdrawal and the Prothonotary and Senior Master is directed to expedite the above refund on an application made by the Plaintiffs.

5. The Plaintiffs have informed the Court that they confirm having made the payments to the parties referred to at paragraph 14 of the plaint in Summary Suit No. 2240 of 2009, paragraphs 22 and 24 of the plaint in Suit No. 133 of 2013 and paragraph 29 of the plaint in Suit No. 349 of 2013. The Plaintiffs agree, confirm and undertake to this court that in view of the amicable settlement between of the Plaintiffs, their sister concern and affiliate entities/their directors and the defendants in the aforesaid three suits, even the criminal case filed by M/s. Anchor Health & Beauty Care (P) Ltd. which is one of the group/group company/sister concerns and affiliate entities of the Plaintiff, does not survive and resultantly, the Plaintiff undertake to this Court that the said Complaint being C.C. No. 79/SW/2009 filed by M/s. Anchor Health & Beauty Care (P) Ltd. before the Ld. Metropolitan Magistrate's 29th Court at Dadar, Mumbai shall not be pursued further. In the said Complaint a C Summary Report has been filed long back by the Police and therefore the same shall not be challenged by M/s. Anchor Health & Beauty Care (P) Ltd. and upon there being need in future to file any Application/Petition/Affidavit etc. either before the Ld. Trial Magistrate seeking withdrawal of the said criminal case or in the Hon'ble High Court, Bombay seeking quashment thereof, said M/s. Anchor Health & Beauty Care (P) Ltd. shall file such Application / P Petition/

Affidavit within one week from the date of being called upon by the Defendants to do so.

6. It is made clear that this order shall in no manner prevent or affect the rights of the Defendants to proceed or act against their ex employee Mr. Zubin Contractor in any Court of Law in proceedings that may be instituted by or against the Defendants and the same shall be decided in accordance with law on their own merits. Nothing in the present order or the orders passed by this court on earlier occasions or by the learned Metropolitan Magistrate shall be deemed to be a waiver of any rights, objections, contentions or claims that the Defendants herein have against the said Zubin Contractor.

7. The Plaintiffs, their sister concerns and their directors including Mr. Sanjay Shah, Mr. Atul Shah and Mr. Mehul Shah agree, confirm and undertake to this court that they have no claims against the Defendants and shall not make any claim in future in relation to or in arising out of the subject matter of these suits or the proceedings forming the subject matter of FIR No. 16/2011 of EOW, Crime Branch, Mumbai. The Defendants agree, confirm and undertake to this court that they have no claims against the Plaintiffs their sister concerns and their directors including Mr. Sanjay Shah, Mr. Atul Shah and Mr. Mehul Shah and shall not make any claim in future in relation to and arising out of the subject matter of these suits or the proceedings forming the subject matter of FIR No. 16/2011 of EOW, Crime Branch, Mumbai.

8. Liberty to apply.

All undertakings accepted and so ordered.

3 The above three suits stand disposed accordingly.

4 All interim applications stand disposed. All interim orders, if any, stand vacated.

5 All parties to act on a copy of this order authenticated by the Associate of this Court.

(K.R. SHRIRAM, J.)