JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) NO. 361 OF 2016

IN

SUIT NO. 99 OF 2016

J.G. Hosiery Private Limited …Plaintiff

Versus

Sunil Khanna and Another …Defendants

Mr. Amit Jamsandekar, *with Pooja Sharma for the Plaintiff.*
Ms. Ritika Agarwal, *i/b P.H. More for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 7th October 2016

PC:-

1. Ms. Agarwal on behalf of Defendants has instructions to state that as regards the products under the **SAGAR MACHO / SAGAR MACHO TRUNK** brand and supplied to C.S.D., Mumbai, the last set of supplies was against a purchase order dated 27th May 2016; and that these products were recalled on 20th June 2016 and replaced with items bearing the mark **SAGAR HAWK**.

2. As regards the goods with the mark **SAGAR COMFY**, she states that the Defendants ceased supply of these goods with effect from 9th November 2015.

3. Similarly, for goods under the mark **SAGAR SPORT**, all supplies by the Defendants to CSD, Mumbai ceased with effect from 1st May 2013.

4. These statements are accepted.

5. Ms. Agarwal also states that she has instructions to give an undertaking on behalf of the Defendants that the Defendants will not adopt any of these marks in relation to these goods. That undertaking is also accepted.

6. Ms. Agarwal states that so far as the marks **SAGAR COMFY** and **SAGAR SPORTS** are concerned, these applications or registrations have been abandoned. The Defendants agree not to apply again for registration of these marks in their name or in their name of any sister concern or affiliate hereafter.

7. As regards **SAGAR MACHO / SAGAR MACHO TRUNK**, the Defendants have sought withdrawal of the registration by an application dated 22nd September 2016. That application will be taken up by the Registrar of Trade Marks on 20th October 2016 and will be processed on a priority basis preferably on that day itself. The Defendants will not apply for re-registration of this mark under any class hereafter. A copy of this order is to be communicated by the Prothonotary & Senior Master and by the Plaintiffs' Advocates to the Registrar of Trade Marks under intimation to the Defendants' attorneys. The Registrar of Trade Marks is to act on an authenticated copy of this order. If the matter is not taken up by the

Registrar of Trade Marks on that day, liberty to the Plaintiffs to apply to this Court for further orders.

8. In view of this, the Suit is decreed in terms of prayer clauses (a) and (b). Mr. Jamsandekar withdraws his claim for damages. The Suit is decreed in these terms.

9. Drawn up decree is dispensed with. However, should the parties require a drawn up order or decree, they will be entitled to apply to the department for one without having to make a separate application in that behalf and on production of an authenticated copy of this order.

10. The Notice of Motion does not survive and is disposed of accordingly.

11. Refund of Court Fees, if any, in accordance with the Rules.

(G. S. PATEL, J.)