

\$~16

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

+ **CS(COMM) 35/2016 & IA No.10201/2016 (u/O 23 R-3 CPC)**

HSIL LTD

..... Plaintiff

Through: Mr. Manav Gupta and Ms. Esha
Dutta, Advs.

Versus

SAFARI SANITARY WARES

..... Defendant

Through: Mr. Saksham Maheshwari, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

23.08.2016

%

1. The plaintiff has sued for injunction restraining the defendant from using the plaintiff's trademark 'H VITREOUS' with or without 'HINDUSTAN' or any other mark deceptively similar to the plaintiff's trademark 'H VITREOUS' conjunctively with Hindustan Sanitaryware & Industries Ltd..

2. The suit was entertained and vide *ex-parte* ad-interim order dated 15th January, 2016, the defendant restrained from using the trademark 'HINDUSTAN VITREOUS' or 'H VITREOUS' or any other trademark infringing the registered trademark of the plaintiff and from passing off its goods as that of the plaintiff. The said order has continued till now.

CS(COMM) 35/2016

Page 1 of 3

3. The parties were referred to the Mediation Cell of this Court and mediation is reported to have been successful with the efforts of Mr. K. Venkatraman, Advocate / Mediator and a Settlement Agreement dated 12th August, 2016 stated to be bearing the signatures of the authorised signatories of the parties as well as advocates for the parties and of the Mediator, has been received in this Court.
4. The plaintiff has also filed IA.No.10201/2016 under Order XXIII Rule 3 of Code of Civil Procedure, 1908 for disposal of the suit in terms of the Settlement Agreement.
5. The counsel for the plaintiff and the counsel for the defendant support the settlement and seek disposal of the suit in terms thereof.
6. I have perused the Settlement Agreement. The same is found to be lawful and is allowed.
7. The suit is decreed in favour of the plaintiff and against the defendant in terms of the Settlement Agreement dated 12th August, 2016 which shall form part of the decree sheet, leaving the parties to bear their own costs.
8. Decree sheet be drawn up.
9. The counsels state that the representative of the plaintiff will visit the premises of the defendant on 28th August, 2016 to carry out the removal of the infringing goods in terms of Clause 5 of the Settlement Agreement.
10. The parties are ordered to be bound by their aforesaid statement.
11. The counsel for the plaintiff seeks refund of court fees.
12. When large corporate as the plaintiff are before this Court and specially in Intellectual Property Rights (IPR) matters in which as it is they enjoy the benefit of payment of lower court fees vis-a-vis other suits, I have not been

following the practice of ordering refund of the court fees. However, in this case, since the counsel for the plaintiff insists, it is deemed appropriate to record this reason therefor.

13. Accordingly, the request for refund of the court fees is denied.

14. The date of 19th September, 2016 before the Joint Registrar is cancelled.

RAJIV SAHAI ENDLAW, J.

AUGUST 23, 2016

bs ..