

\$~18

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

+ **CS(OS) 1446/2011**

M/S MICOLUBE INDIA LTD

..... Plaintiff

Through: Mr. Ajay Amitabh Suman,
Advocates.

versus

RAKESH KUMAR AND ORS

..... Defendants

Through: Mr. Manish Biala and Mr. Shobhit
Agrawal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **15.01.2016**

1. This suit is disposed of in terms of the following agreed order.
2. In a connected litigation between the parties being FAO 480/2013 titled as ***Mr. Rakesh Kumar and Ors Vs. M/s Micolube India Limited*** a settlement in appeal was arrived at and para 2(i) of the settlement recorded in the order dated 3.4.2014 reads as under:-

“(i) Appellants/defendants will be entitled to use the trademark ‘MECO’ subject to the condition that the packaging and the bottles or containing of the appellants/defendants will not in any manner be deceptively similar with the packaging and bottles/containers of the respondent-plaintiff i.e the appellants will not adopt the yellow colour being used in the bottles of the respondent-plaintiff, appellants-defendants will not use the shapes of the bottles being used by the respondent-plaintiff, appellants-defendants will not

use the colour red with respect to its trademark 'MECO'. In essence, appellants-defendants will ensure that there is no deceptive similarity in packaging of the goods of the appellants-defendants and the respondent-plaintiff."

3. It is agreed that this suit also will stand decreed in terms of the contents of para 2(i) of the order dated 3.4.2014 in FAO 480/2013 with the further clarification that shape of the bottles of Micolube India Limited will be the shape which is subject matter of the registered design of M/s Micolube India Ltd. at no. 220071.

4. Suit is accordingly disposed of as compromised, leaving the parties to bear their own costs. The compromise in this suit will not affect the decision on merits in the inter se suit filed by the plaintiff herein against the defendants herein for infringement of the trademark of the plaintiff.

VALMIKI J. MEHTA, J

JANUARY 15, 2016

ib