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

+ **CS(COMM) 290/2016 & IA No.4182/2016**

M/S BOMBAY SEWING MACHINE CO Plaintiff
Through : Ms. Kritika Sahai, Advocate

versus

M/S ROSHAN ENTERPRISES Defendant
Through : Ms. Shikha Mehra, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER
% **05.08.2016**

IA No.9385/2016 (joint application u/O XXIII R 3 CPC)

1. The present compromise application has been filed by the parties stating *inter alia* that during the pendency of the suit, they have arrived at an out of court settlement, whereunder the defendant a sole proprietorship firm, has acknowledged the plaintiff to be the registered proprietor of the trademark "DURBY", as detailed in para 1 of the application and has ceased to market/manufacture the goods under the mark "DURMY". The defendant has undertaken that it has no intention to use the trademark "DURMY" in the future and it has destroyed all its labels, stocks, packaging, advertisements, etc., with reference to the impugned trademark. The defendant has also confirmed that it does not have any stock of the infringing goods under the impugned trademark. The remaining terms and conditions of the settlement have been set out in paras 2 to 7 of the application.

2. Counsels for the parties jointly state that the present suit may be decreed in view of the settlement arrived at between the parties.
3. The Court has pursued the present application. The same has been signed by the partner of the plaintiff and the sole proprietor of the defendant as also by their respective counsels. The application is supported by the affidavits of the signatories to the application.
4. As counsels for the plaintiff and the defendant jointly state that the parties have arrived at the aforesaid settlement of their own free will and volition and without any undue influence or coercion from any quarters, there appears no legal impediment in accepting the settlement. The parties shall remain bound by the terms and conditions of the settlement recorded in the application.
5. The application is allowed and the suit is decreed in terms of the settlement arrived at and recorded in the application, while leaving the parties to bear their own costs.
6. The suit is disposed of, along with the pending application.
7. The date already fixed in the case, i.e., 14.9.2016 stands cancelled.
8. File be consigned to the record room.

HIMA KOHLI, J

AUGUST 05, 2016

sk/ap