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

+ **CS(COMM) 527/2016**

HARISH KUMAR Plaintiff

Through Mr. D.K. Yadav, Advocate

versus

SATISH KUMAR MALHOTRA Defendant

Through Mr. Rahul Vidhani and Mr. Mahir
Malhotra, Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

% **02.11.2016**

IA.2904/2016(by plaintiff)

This is an application filed under Order 6 Rule 17 read with Order I Rule 10 of the Code of Civil Procedure for amendment of the plaint. Counsel for the plaintiff submits that necessity for filing of this application has arisen on account of the fact that the defendant has disclosed that the proprietor of the defendant is Santan Malhotra and not Satish Kumar Malhotra, who is her husband. The defendant claims that Satish Kumar Malhotra is not a proper and necessary party. The prayer made in this application is not opposed and thus, the application is allowed. Name of Satish Kumar Malhotra be deleted from the array of parties. Let amended memo of parties be filed.

The application stands disposed of.

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Plaintiff has filed the present suit for permanent injunction restraining passing off of trade mark, rendition of accounts etc.

Counsel for the defendant Santan Malhotra submits that after passing of the injunction order, the defendant has stopped using the impugned trade mark.

The counsel submits that the defendant has no objection if the present suit is decreed in favour of the plaintiff and against the defendant in terms of para 38(A) of the plaint, provided the plaintiff gives up the relief of damages. Counsel for the defendant further submits that all labels, display boards, sign boards, trade literature, advertisement material bearing NULIFE MEDICOS have already been destroyed and, if not destroyed, will be destroyed within two weeks from today.

Counsel for the plaintiff prays for at least symbolic damages. Having regard to the facts of the present case, the suit is decreed in terms of para 38(A) of the plaint, the statement with regard to the delivery up is taken on record, it shall be taken as an undertaking to the Court.

Interim order is confirmed.

Since the matter has been settled through mediation of the Court, the plaintiff shall be entitled to refund of court fee as per Section 16 of the Court Fee Act. Let an appropriate Certificate be issued.

Decree sheet be drawn up accordingly.

G.S.SISTANI, J

NOVEMBER 02, 2016

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