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

+ **CS(COMM) 1276/2016**

HAMDARD NATIONAL FOUNDATION (INDIA) & ANR

..... Plaintiffs

Through: Mr. N.K.Anand, Advocate with
Mr. Javed Akhtar, Mr. Shivendra Prasad Singh and
Mr. Sunil Mishra, Advocates

versus

JEEVAN REASEARCH INSTITUTE LLP & ANR..... Defendants

Through: Mr. Gurvinder Singh, Advocate with
Mr. K.K. Gupta, AR of D-1.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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16.09.2016

CAVEAT 809/2016

1. Learned counsel enters appearance for both the defendants and states that he has received a complete set of the paper book.
2. Accordingly, the caveat stands discharged.

CS(COMM) 1276/2016 and I.A. 11351-11353/2016

1. The plaintiffs have instituted the present suit for permanent injunction to restrain the defendants from infringement of the trade mark/shape mark, trade dress, passing off, rendition of accounts, delivery up, damages etc.

2. The plaintiffs are aggrieved by the act of the defendants of adopting Five Ringlets Bottles with a yellow cap in respect of the product manufactured by the defendant No.2 and marketed by the defendant No.1 under the name, "SHARBAT-E-SHAHI", which is stated to be deceptively similar to the Five Ringlets Bottle used by the plaintiffs in respect of their product, "ROOH AFZA".

3. Learned counsel for the defendants fairly states that he has obtained instructions from his clients to the effect that they shall forthwith stop manufacturing the Five Ringlets Bottles with the yellow cap.

4. However, Mr. Anand, learned counsel for the plaintiffs states that the defendants be called upon to clarify as to the number of bottles presently available in their stock.

5. Learned counsel for the defendants states on instructions that at present, the defendants have a stock of 35,000 bottles and they seek six months' time to exhaust the said stock.

6. The aforesaid suggestion is unacceptable to the other side. After some negotiations, it has been agreed by the parties that the defendants shall exhaust their entire stock of Five Ringlets Bottles on or before 30.11.2016 and shall file an affidavit of compliance by 01.12.2016, with a copy to the other side specifying *inter alia* the remaining number of bottles left with them. Thereafter, a notice shall be given by the defendants to the plaintiffs for fixing a date to destroy the remaining stock, if any.

7. The present suit is disposed of while binding the defendants to their statement recorded hereinabove. If the defendants fail to file the affidavit within the first week of December, 2016 as directed above, then the

plaintiffs shall be entitled to approach the Court for appropriate orders.

8. The suit is disposed of alongwith the pending applications.

HIMA KOHLI, J

SEPTEMBER 16, 2016

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