

2# \$~

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

+ **CS(OS) 547/2009**

**MOLSON COORS INDIA PRIVATE
LIMITED & ANR.**

....Plaintiffs

Represented by: Mr. Saif Khan and Mr.
Praveen, Advocates.

versus

GURMON ENTERPRISES & ANR. C+ Defendants

Represented by: Mr. Amarjit Singh,
Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

%

11.08.2017

I.A. No. 8624/2017 (under Order XXIII Rule 3 CPC)

1. By this joint application the plaintiffs and the defendants seek disposal of the suit in terms of the settlement arrived at between the parties.

2. Taking the settlement on record, application is disposed of decreeing the suit in terms of the settlement.

CS(OS) 547/2009

1. Parties have entered into a settlement and the terms of the settlement have been incorporated in paragraph Nos. 4, 5 and 6 of I.A. No. 8624/2017 as under:

“4. *The Defendants consent to the passing of a Decree in terms of the prayer made in paragraphs 28(a), 28(b) & 28(c) of the plaint.*

5. *The Defendant No.2 further undertakes before this*

Hon'ble Court they shall immediately, and not later than 2 weeks of disposal of the present application, withdraw the trademark THUNDERNIGHT bearing TM application no.1806665 under Class 32 filed by them before the Ld. Registrar of Trademarks and immediately thereafter communicate the confirmation of the said withdrawal in writing to the counsel for the Plaintiffs. The Defendants undertakes to never apply for registration as trademark of any THUNDER formative mark in future.

6. *In view of the above consent of the Defendants to concede to the Decree of Perpetual Injunction, the Plaintiffs agree to forego its claim for Rendition of Accounts, cost and damages as prayed for in paragraphs 28(d), 28(e) & 28(f) of the plaint."*

2. Application is supported by the affidavit of Mr. Ashutosh Das, Director Legal, Compliance & Corporate Affairs and authorized signatory of plaintiff No.1, authorization in whose favour is placed on record in terms of the extracts of Board Resolution dated 9th December, 2015.

3. Application is also supported by the affidavit be Mr. K.C. Garg, Director, Finance of Plaintiff No. 2 and since Plaintiff No. 2 is a public limited company, necessary documents showing that Mr. K.C. Garg is the Director of Defendant No. 2 and thus competent to take action on behalf of plaintiff No. 2 have been placed on record.

4. Application is also supported by the affidavit of Mr. Badal Chauhan, on behalf of defendant No. 1. Defendant No. 1 is Gurmon Enterprises and was initially a partnership firm but has now been

converted into a private limited company. Thus by virtue of the Resolution dated 27th July, 2017 Mr. Badal Chauhan, Director of the Company has been duly authorised to deal with all legal matters on behalf of the company in Delhi.

5. Application is also supported by the affidavit of Mr. Pramod Kumar Agarwal, Director of Defendant No. 2 Superior Industries Limited, authorization in whose favour is placed on record in the form of Minutes of Meeting dated 28th June, 2017.

6. The Directors of defendant No. 1 and defendant No. 2 are also present in Court and are identified by the learned counsel. They affirm the facts stated on oath by them and have no objection if the suit is decreed in favour of the plaintiff and against the defendants as settled vide Paragraph Nos. 4, 5 and 6 of I.A. No. 8624/2017.

7. Suit is accordingly decreed in terms of prayers in Paragraph 28 (a), 28(b) and 28(c) of the plaint and as further undertaken in paragraph Nos. 4, 5 and 6 of the application.

8. Decree sheet will incorporate the terms of the settlement arrived at between the parties.

MUKTA GUPTA, J.

AUGUST 11, 2017

‘vn’