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

+ CS(OS) 851/2012

SANJAY KAPUR & ANR

..... Plaintiffs

Through: Ms Suhasini Raina and Ms Ashwini
Kumar, Advocates.

versus

DEV AGRI FARMS PVT LTD

..... Defendant

Through: Mr Satyajit Sarna and Mr Mohit Negi,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **17.01.2017**

IA No.627/2017

This is an application filed on behalf of the parties under Order XXIII Rule 3 of the Code of Civil Procedure, 1908, *inter alia*, praying that the suit be decreed in terms of paragraph 38(a) and (c) of the plaint as well as in terms of the present application. The application is supported by affidavits affirmed on behalf of the parties.

The learned counsel for the parties state that in terms of the agreement as recorded in the application, the defendant has agreed to destroy the allegedly infringing packaging and, accordingly, decree in terms of para 38(c) of the plaint is not required. The learned counsel for the plaintiff concurs with the same. The learned counsel for the parties submit that the present suit be decreed only in terms of paragraph 38(a) of the plaint which

reads as under:-

- “(a) The relief be granted in their favour by passing a decree of restraining the defendants, their retailers, agents, distributors, C&F franchisees and anyone acting for and on their behalf from manufacturing/blending, selling, advertising, offering for sale or dealing with tea powder or tea products sold as BAGAN Fresh Tea or any other hot beverage products in packaging which is either identical or deceptively similar to the Plaintiffs’ packaging or which are a colourable imitation or a substantial reproduction of the plaintiffs packaging so as to result in passing off, acts of unfair competition, dilution of the rights of the plaintiffs.”

The settlement is lawful and, accordingly, the application is allowed. The suit is decreed in terms of paragraph 38(a) of the plaint. Let a decree sheet be drawn up. The present application be treated as a part of the decree sheet. Any pending application(s) also stand disposed of.

The date already fixed - that is, 27.02.2017 - stands cancelled.

VIBHU BAKHRU, J

JANUARY 17, 2017
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