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

+ **CS(OS) 3289/2012**

METRO INSTITUTES OF MEDICAL

SCIENCES P LTD

..... Plaintiff

Through: Mr. Sachin Gupta, Advocate

versus

DR FAHAD ISLAHI & ANR

..... Defendants

Through: Mr. Kanwar Singh, Mr. Varun
Pandey, Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **04.12.2017**

IA No.14258/2017 (of the parties under Order XXIII Rule 3 CPC)

1. The plaintiff has instituted this Suit to restrain the defendants from infringing the trademark 'METRO' of the plaintiff and for ancillary reliefs.
2. The parties have now settled all their disputes and differences subject matter of the present Suit and an application being IA No.14258/2017 under Order XXXIII Rule 3 of the Code of Civil Procedure, 1908 has been filed.
3. The counsel for the plaintiff and the counsel for the defendants support the said application.
4. I have perused the application. The same is found to be signed by the defendant No.1 only. The counsel on enquiry states that the defendant No.1 Dr.Fahad Islahi is the proprietor of the defendant No.2 / Metro Hospital and Trauma Centre.
5. However, the aforesaid is found to be contrary to para 2(iv) of the application where the defendant No.2 is described as 'Lucknow Metro Health

P. Ltd.’ It appears that the compromise is not supposed to bind Lucknow Metro Healthcare P. Ltd.

6. The counsel for the plaintiff states that, the defendant No.1 / Dr. Fahad Islahi who, at the time of institution of the Suit, was carrying on business in partnership (as distinct from proprietor as earlier stated) in the name of Metro Hospital and Trauma Centre; during the pendency of this Suit, the partnership firm has been converted into Lucknow Metro Healthcare P. Ltd., but since Lucknow Metro Healthcare P. Ltd. was not a party to the Suit, the need to make them a party to the compromise application did not arise and provision in that regard has been made in para 2(x) of the compromise application.

7. Be that as it may, that is the look out of the plaintiff and if the plaintiff does not safeguard itself properly, the Court is not to advise the plaintiff.

8. Save for the aforesaid observations, the compromise is found to be lawful and is allowed. A decree is passed in favour of the plaintiff and against the defendant No.1 / Dr.Fahad Islahi in terms of the compromise application which shall form part of the decree sheet. No decree is being passed against the defendant No.2 since according to the plaintiff also, the defendant No.2 Metro Hospital and Trauma Centre has ceased to exist.

No costs.

9. Decree sheet be prepared. This order to form part of decree sheet.

10. The date of 16th February, 2018 stands cancelled.

RAJIV SAHAI ENDLAW, J

DECEMBER 04, 2017

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