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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) No.1650/2016 & IA No.15899/2016 (under Order XXXIX Rules 1&2 CPC).

AGASTYA MIHIR R DALMIA & ANR Plaintiffs
Through: Mr. Chander Lall with Mr.
Abhimanyu Kumar and Ms. Nancy
Roy, Advs.

versus

SURENDER PAHUJA & ORS. Defendants
Through: Mr. M.L. Mangla and Mr. Manish
Singhal, Advs.

AND

CS(COMM) No.42/2017 & IA No.623/2017 (XXXIX Rules 1&2
CPS).

AGASTYA MIHIR R. DALMIA AND ANR Plaintiffs
Through: Mr. Chander Lall with Mr.
Abhimanyu Kumar and Ms. Nancy
Roy, Advs.

versus

DEEPAK PAHUJA Defendant
Through: Mr. M.L. Mangla and Mr. Manish
Singhal, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **19.01.2017**

**IA No.710/2017 (under Order XXIII Rule 3 CPC) in CS(COMM)
No.1650/2016.**

1. The plaintiffs and the defendant Mr. Surender Pahuja in the suit are stated to have compromised all the disputes and differences subject matter of the suit on the terms contained in this application and which is stated to be signed by/on behalf of the plaintiffs and by the defendant Mr. Surender Pahuja and it is also stated to be accompanied by the affidavits of the said

signatories.

2. The counsels inform that though the plaintiffs had sued only Mr. Surender Pahuja but the defendant Mr. Surender Pahuja is carrying on business, activities wherein are impugned in the suit, in partnership with Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja who have also signed the application and filed their affidavits along therewith; copy of the Partnership Deed is also filed along with the application.

3. The application is also stated to be signed by the counsels for the parties.

4. The counsel for the defendant Mr. Surender Pahuja states that he, besides appearing for the defendant Mr. Surender Pahuja, is also appearing for the said Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja and *Vakalatnama* on behalf of Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja has also been filed.

5. I have perused the contents of the application; besides the defendant Mr. Surender Pahuja, the aforesaid Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja have also given undertakings and agreed to be bound by the decree to be passed in the suit.

6. On oral request of the counsel for the plaintiffs and to which the counsel for the defendant Mr. Surender Pahuja and the said Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja has no objection, the said Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja are also impleaded as defendants no.2&3 to the suit.

7. Amended memo of parties be filed by the counsel for the plaintiffs during the course of the day and the same be handed over to the Court

Master.

8. It is a term of the compromise that the defendants have *inter alia* undertaken to pay liquidated damages to the tune of Rs.3,50,00,000/- to the plaintiffs, should the defendants violate any of the terms of the Agreement.

9. I have enquired from the counsel for the plaintiffs as to how the said clause of compromise can be decreed as the same would need trial.

10. The counsel for the plaintiffs clarifies that for enforcing such claim the plaintiffs will file a fresh suit.

11. Subject to the aforesaid, the compromise contained in the application is found to be lawful and is allowed.

12. The undertakings of the defendant Mr. Surender Pahuja and of the newly impleaded defendants Mr. Ved Parkash Pahuja and Mr. Harish Kumar Pahuja as contained in the application are accepted by this Court and the defendants are ordered to be bound therewith and through counsel cautioned of the consequences of breach thereof.

13. A decree is passed in favour of the plaintiffs and against the defendants in terms of this compromise application (save for the clarification aforesaid) and which shall form part of the decree sheet, leaving the parties to bear their own costs.

14. Decree sheet be drawn up.

CS(COMM) No.42/2017 & IA No.623/2017 (XXXIX Rules 1&2 CPS).

15. The defendant Mr. Deepak Pahuja has been served and appears through the same counsel who is appearing for the defendants in CS(COMM) No.1650/2016.

16. On enquiry, the counsel for the defendant Mr. Deepak Pahuja states

CS(COMM) No.1650/2016 & CS(COMM) No.42/2017

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that the business, activities whereof are impugned in this suit, is the sole proprietary business of the defendant Mr. Deepak Pahuja.

17. The counsels state that the disputes in this suit have also been compromised. The counsels state that the defendant Mr. Deepak Pahuja is present in the Court and the plaintiffs and the defendant Mr. Deepak Pahuja make statement that this suit be also disposed of on the same terms as CS(COMM) No.1650/2016.

18. The statement on oath of the defendant Mr. Deepak Pahuja has been recorded in the Court.

19. He has agreed to the disposal of the suit on the same terms as contained in IA No.710/2017 in CS(COMM) No.1650/2016 save for (i) that the business name and address of the defendant in para 2(F) instead of “SHAKE SQUARE at Shop No.17-A, Road Number 3, Block-A, Connaught Place, New Delhi – 110 001” shall be read as “Deepak & Co., 16/10181, Gurudwara Road, Karol Bagh, New Delhi – 110 005; (ii) that para 2 (I) would not apply to the defendant Mr. Deepak Pahuja to the extent it relates to the websites mentioned therein; and, (iii) the defendant Mr. Deepak Pahuja undertakes to this Court to within a period of four weeks from today to have the trade name of his shop at 16/10181, Gurudwara Road, Karol Bagh, New Delhi – 110 005 changed under the Delhi Shops & Establishments Act, 1954 as well as in all other Authorities with which it may be registered, from that of “KEVENTER’S & CO.” to “ DEEPAK & CO.”.

20. The aforesaid compromise as clarified with respect to IA No.710/2017 and hereinabove is found to be lawful and is allowed.

21. The undertakings of the defendant Mr. Deepak Pahuja are accepted and he is ordered to be bound therewith and cautioned of the consequences of breach of undertaking given to the Court.

22. A decree is passed in favour of the plaintiffs and against the said defendant Mr. Deepak Pahuja on the terms contained in IA No.710/2017 in CS(COMM) No.1650/2016 as clarified in the order on IA No.710/2017 in CS(COMM) No.1650/2016 and as clarified hereinabove, leaving the parties to bear their own costs.

23. The statement recorded of the defendant Mr. Deepak Pahuja today as well as this order sheet to form part of the decree sheet.

24. Decree sheet be drawn up.

25. On request of the counsel for the plaintiffs, 50% of the court fee paid in each of the suit be refunded by issuing a certificate therefor in the name of the plaintiff no.1 and the certificate be handed over to the counsel for the plaintiffs.

RAJIV SAHAI ENDLAW, J

JANUARY 19, 2017

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Statement of Mr. Deepak Pahuja aged about 45 years S/o Shri Ved Parkash Pahuja R/o 36/1, East Patel Nagar, New Delhi – 110 008 on S.A.

1. I am carrying on business as sole proprietor of Deepak & Co. at 16/10181, Gurudwara Road, Karol Bagh, New Delhi – 110 005.
2. The defendant Surender Pahuja in CS(COMM) No.1650/2016 is younger brother of my father and the defendant no.2 today impleaded therein i.e. Mr. Ved Parkash Pahuja is my father.
3. I have read IA No.710/2017 in CS(COMM) No.1650/2016 vide which compromise has been arrived at in CS(COMM) No.1650/2016.
4. I also do not want to contest this suit and have compromised all disputes and differences subject matter of this suit with the plaintiffs on the same terms as contained in IA No.710/2017 in CS(COMM) No.1650/2016 save (i) that the business name and address of the defendant in para 2(F) instead of “SHAKE SQUARE at Shop No.17-A, Road Number 3, Block-A, Connaught Place, New Delhi – 110 001” be read as “Deepak & Co., 16/10181, Gurudwara Road, Karol Bagh, New Delhi – 110 005; (ii) that para 2 (I) would not apply to me to the extent it relates to the websites mentioned therein; and, (iii) I need time to effect change in the name of my shop / outlet and undertake to this Court to within a period of four weeks from today have the name of my shop at 16/10181, Gurudwara Road, Karol Bagh, New Delhi – 110 005 changed under the Delhi Shops & Establishments Act, 1954 as well as in records of all other Authorities with

which it may be registered from that of “KEVENTER’S & CO.” to “DEEPAK & CO.”.

5. I undertake to this Court to abide by the undertakings as contained in IA No.710/2017 in CS(COMM) No.1650/2016 and as applicable to me.

6. I have understood the consequences of breach of undertakings given to the Court.

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RAJIV SAHAI ENDLAW, J

JANUARY 19, 2017
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