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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO 433/2017 and C.M. Appl. Nos. 40125-26/2017

B M K MARKETING & ORS

..... Appellants

Through: Mr. Jayant K. Mehta, Mr. Jaspreet Singh Kapur, Mr. Rahul Kukreja and Ms. Disha Malhotra, Advocates.

versus

KRBL LIMITED

..... Respondent

Through: Mr. Akhil Sibal, Sr. Advocate with Mr. S.K. Bansal and Mr. Ajay Amitabh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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08.11.2017

C.M. No. 40126/2017 (exemption)

Exemption allowed subject to just exceptions.

C.M. stands disposed of.

FAO 433/2017 and C.M. Appl. No. 40125/2017 (for stay)

1. After arguments, this appeal is disposed of with the following consent order:-

(i) Impugned order of the trial court dated 26.9.2017 will stand modified by the appellants/defendants being entitled to use the trademark India Gate with device for sale of its product being Saffron, however, the sale of the product Saffron under the trademark and device India Gate will be limited to the states of Andhra Pradesh and Telangana.

(ii) Appellants/defendants will ensure that its colour scheme of packaging will under no circumstances have any similarity or deceptive similarity with the colour scheme of packaging of the respondent/plaintiff, making it clear that the respondent/plaintiff is presently using effectively two main colours of brown and light brown/light yellow/light golden in its packaging.

(iii) The aforesaid consent order is passed without prejudice to the respective rights and contentions in the suit and all contentions of the respective parties in the suit will be decided in accordance with law at the stage of final arguments.

(iv) The observations in the impugned order of the plaintiff being entitled to file an application under Section 340 Cr.P.C. will continue however that aspect will be an aspect which will be taken up on an application being filed at the stage of final arguments in the suit.

2. The present appeal is accordingly disposed of in terms of the aforesaid observations, leaving the parties to bear their own costs.

VALMIKI J. MEHTA, J

NOVEMBER 08, 2017

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