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

\+ CS(COMM) 133/2016, IA No.2435/2016 (u/O XXXIX R-1&2 CPC) & IA No.5131/2016 (u/O VII R-11 CPC)

MARICO LIMITED ..... Plaintiff

Through: Ms. Kripa Pandit, Adv.

Versus

RAJENDRA ALIAS RAJU TRADING AS M/S BHAVANI GRUH UDYOG ..... Defendant

Through: Mr. Sazid Rayeen, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 31.01.2018

1. The plaintiff instituted the present suit against the sole defendant for permanent injunction restraining infringement of trade mark and copyright and for ancillary reliefs.

2. The suit was entertained and vide *ex parte* ad-interim order dated 19th February, 2016, the defendant restrained from in any manner manufacturing, selling, storing or using, advertising or promoting any labels which are in any manner a violation of the copyrights which the plaintiff has with respect to its hair oils and edible oil products being sold under the word marks and trademarks namely “PARACHUTE”, “PARACHUTE ADVANSED JASMINE”, “PARACHUTE ADVANSED TENDER COCONUT HAIR OIL”, “Marico’s HAIR & CARE”, “NIHAR NATURALS SHANTI Badam Amla”.

3. The present suit was consolidated with CS(COMM) No.114/2016 which was referred to mediation and hence this suit was also taken up by Mediation Cell of this Court.

4. Mediation has been successful with the efforts of Mr. Rakesh Munjal, Senior Advocate / Mediator and a Settlement Agreement dated 12th December, 2017 purported to be signed by the plaintiff, defendant, their respective advocates and the Mediator has been received from the Mediation Cell of this Court.

5. The counsel for the plaintiff and the counsel for the defendant support the Settlement Agreement.

6. The counsel for the defendant however states that task of finalising the Settlement Agreement was left to the counsel for the plaintiff and it has now been realized that in the Settlement Agreement dated 12th December, 2017, the defendant has been shown trading as M/s Bikaji Oil Industries, when the defendant has no connection therewith and there is no such entity to the knowledge of the defendant.

7. Though the counsel for the plaintiff states that the said defendant was found to be carrying on business in the said name and impugned goods were also found in the market but the plaintiff has no objection to a decree being passed in terms of the Settlement Agreement dated 12th December, 2017 with the said clarification.

8. I have gone through the compromise as recorded in the Settlement Agreement dated 12th December, 2017 and find the same to be lawful save for Clauses E(vi),(viii) and (ix) thereof and have enquired from the counsel for the plaintiff as to how the said Clauses, if not complied with by the defendant, are to be implemented and whether the plaintiff will file any execution of the decree if any passed in terms of the Settlement Agreement

dated 12th December, 2017 and how such a decree can be executed.

9. The counsel for the plaintiff agrees that there can be no execution of the said part of the compromise and if need be, the plaintiff will file a separate suit.

10. Subject to the aforesaid, the compromise is found to be lawful and is allowed.

11. A decree is passed in favour of the plaintiff and against the defendant in terms of the Settlement Agreement dated 12th December, 2017 and today's order, both of which shall form part of the decree sheet.

12. The representative of the plaintiff to visit the premises of the defendant within 15 days of today and in the presence of the said representative of the plaintiff, the Superdar, to whom goods were entrusted, shall remove the seal from the seized goods and the infringing material shall be destroyed.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

JANUARY 31, 2018
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