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

+ **CS(COMM) 576/2018**

**ACC LTD**

..... Plaintiff

Through: Mr.Nachiket Joshi, Mr.Kunal Anand,  
Ms. Ayushi Rajput and Mr. Shivam  
Tyagi along with Authorised  
Representative

versus

**SHIV CEMENT COMPANY**

..... Defendant

Through: Mr. Satish Kumar, Mr. Umesh Mishra  
and Mr.Vishal Patel, Advocates along  
with Mr.Sanjeev Kumar.

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**ORDER**

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**25.10.2018**

1. After hearing the matter for some time, this Court considers it necessary to examine the defendant on oath under Section 165 of the Indian Evidence Act. The statement of the defendant is recorded separately.
2. This court is of the prima facie view that the defendant has raised false claims before this Court. In that view of the matter, show cause notice is hereby issued to the defendant as to why a complaint be not made against him under Section 340 Cr.P.C for raising false claim under Section 209 of Indian Penal Code before this Court.
3. The defendant present in Court accepts notice and submits that plaintiff's suit be decreed in respect of prayers (i) and (ii). The defendant tenders an unconditional apology and seeks discharge of the notice. The defendant undertakes to contribute Rs.50,000/- to the Kerala Chief

Minister's Distress Relief Fund. The defendant undertakes to withdraw the registration of ACG from the trademark authorities within four weeks from today.

4. The plaintiff's suit is decreed in respect of prayers (i) & (ii). With respect to the prayer (iii), the defendant shall destroy the impugned mark/device, dies, blocks, cartons, labels and any other infringing material in the presence of the authorised representative of the plaintiff within a period of four weeks. With respect to prayers (iv) to (vi), the plaintiff does not press for any damages subject to the defendant complying with the undertaking to deposit Rs.50,000/- with Kerala Chief Minister's Distress Relief Fund. The undertaking to withdraw the registration of ACG from the trademark authorities within four weeks from today is accepted.

5. The suit is disposed of in the above terms. The show cause notice issued to the defendant is discharged.

6. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

**J.R. MIDHA, J.**

**OCTOBER 25, 2018/dk**

**CS(COMM) 576/2018**

**Statement of Mr.Sanjeev Kumar, S/o Sh. Rajpal, aged about 46 years,  
R/o H.No.21, Kirtinagar, Firozpur City, Punjab on S.A.**

I am the proprietor of Shiv Cement Company at Firozpur. I started the cement business in the year 1996 in the name of Shiv Cement Company. In approx. 2003, I changed the name of my brand from Shiv Cement Company to ACG. I also applied for the registration of trademark ACG. There was no logic or reason to adopt the trademark ACG. However, I was blessed with a son in the year 2000 whose nick name was kept as Arik. When I adopted the name ACG, I was well aware of the well known trademark ACC in the market. I cannot comment as to whether an illiterate person who does not know English will get confused and buy my brand ACG thinking that he is buying ACC Cement. After 2003, I also started making cement with the brand names Ultra High Touch and Vijay Shree. I do not admit that the Local Commissioner seized bags named as Shri Cement.

At present I am selling the cement with brand names, namely, Uttam gold, Vijay Shree. After the objection was raised, I stopped Ultra High Touch Cement. Again said, the objection was filed in the trademark Registry. Again said, no court case was filed but only notice issued. Again said, defendant again changed the statement. Court case was filed and there was a stay order in it.

**RO&AC**

**J.R. MIDHA, J.  
25.10.2018**