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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 80/2017

M/S KAMDHENU LIMITED Plaintiff

Through

Mr. S.K. Bansal, Advocate with
 Mr. Kapil Kumar Giri, Mr. Ajay
 Amitabh Suman, Mr. Vinay Kumar
 Shukla, Advocates and Mr. Harish
 Aggrawal, CFO of petitioner-
 company

versus

M/S HIM STEEL PRIVATE LIMITED Defendant

Through

Mr. Rajshekhar Rao with Mr. Vikas
 Chhabra and Mr. Satender Singh,
 Advocates with Mr. Ashok Raja, MD
 of defendant-company.

CORAM:**HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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30.05.2018

The present suit has been filed for permanent injunction restraining infringement/piracy of registered Design under the Design Act, 2000, rendition of accounts, delivery up etc.

Vide order dated 20th February, 2017 passed in FAO No. 87/2017, the matter was referred to the Delhi High Court Mediation and Conciliation Centre.

Mediation in the present case has been successful through the efforts of Ms. Veena Ralli, Advocate-Mediator.

A Settlement Agreement has been executed between the parties on 21st March, 2017.

It is pertinent to mention that the **Supreme Court** in *Afcons Infrastructure Ltd. Vs. Cherian Varkey Construction Co. (P) Ltd., (2010) 8 SCC 24* while dealing with Section 89 of the CPC observed that the settlement agreement will have to be placed before the Court for recording it and in disposing of the suit in its terms, the Court should apply the principle of Order 23 Rule 3 of the CPC and make a decree in terms of the settlement in regard to the subject matter of the suit, to make such settlement effective.

This Court is satisfied that the compromise between the parties contained in the aforesaid Settlement Agreement satisfies the requirements of Order 23 Rule 3 CPC. The compromise contained in the aforesaid Settlement Agreement is lawful and therefore, this Court does not find any impediment in decreeing the present suit in terms of the aforesaid Settlement Agreement.

Today, Mr. Rajshekhar Rao, learned counsel for the defendant, on instruction of Mr. Ashok Raja, Managing Director of defendant-company who is personally present, admits that the defendant has to pay Rs. 6,24,00,000/- to the plaintiff. He, however, states that the defendant is not in a financial position to pay the said amount in one go. The defendant prays for and is permitted to re-pay the aforesaid amount in monthly installments of Rs.10,00,000/- in the first year, Rs. 12,00,000/- in the second year, Rs.15,00,000/- in the third year and Rs. 20,00,000/- per month thereafter till the entire amount is liquidated. The first instalment shall be

paid on 25th July, 2018.

Learned counsel for the plaintiff without prejudice to its rights and contentions states that the plaintiff shall assist the defendant in recovery of debts due and payable by the dealers and distributors of the defendant. It is clarified that the aforesaid obligation will not dilute the liability of the defendant to repay the debt of Rs. 6,24,00,000/- to the plaintiff.

The aforesaid statements, assurances and undertakings given by learned counsel for defendant are accepted by this Court and defendant is held bound by the same.

Consequently, present suit is decreed in terms of the aforesaid Settlement Agreement dated 21st March, 2017 executed between the parties, which is marked as 'Mark X' as well as by the aforesaid statements and undertakings given by the defendant. Registry is directed to prepare a decree sheet in terms thereof.

With the aforesaid observations, present suit and all pending applications stand disposed of.

MANMOHAN, J

MAY 30, 2018

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