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

+ **CS(COMM) 192/2016 & IA No.228/2018 (u/O XXIII R-3 CPC)**

APL APOLLO TUBES LTD Petitioner
Through: **Mr. Rajat Jain, Adv.**

Versus

SURYA ROSHNI LIMITED Respondent
Through: **Mr. Ashok Kumar Mittal and Mr. Partha J. Deka, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.01.2018

1. The plaintiff instituted this suit to restrain the sole defendant from infringing the design Nos.264234 in Class 25-99 and 264233 in Class 23-01 in relation to the Hollow Section Pipe and for ancillary reliefs.
2. The defendant has been contesting the suit and pleadings have been completed. Vide interim order dated 3rd January, 2017, the application of the plaintiff for interim relief was dismissed. FAO(OS)(COMM) No.59/2017 is stated to be pending thereagainst.
3. The parties have now filed IA No.228/2018 under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 and both the counsels support the application and state that the same is signed and supported by affidavits of the constituted attorneys of the respective parties.
4. I have perused the compromise arrived at between the parties.

5. It appears that the defendant also has registration No.279261 and 279262 of designs.
6. The parties have agreed that the defendant shall withdraw the application for cancellation of the registration in favour of the plaintiff and not to infringe the design registered in favour of other.
7. I have enquired from the counsels as to till when the registrations of the design are valid, since there cannot be any injunction qua infringement beyond the said time.
8. Though the counsels are unable to give the date but state that the registrations are of recent vintage and the restraint against infringement will be valid till the validity of the registration.
9. Subject to the aforesaid, the compromise as contained in IA No.228/2018 is found to be lawful and is allowed.
10. The suit is decreed in terms thereof, IA No.228/2018 as well as today's order with both to form part of the decree sheet.
11. The original documents be returned to the respective parties in accordance with rules.
12. The parties to bear their own costs.
13. Decree sheet be drawn up.
14. The date of 31st January, 2018 is cancelled.

RAJIV SAHAI ENDLAW, J.

JANUARY 08, 2018

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