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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CS(COMM) 240/2016, IA No.20167/2012 (u/O XXXIX R-1&2  
CPC), IA No.4069/2017 (u/O XXXIX R-2A CPC) & IA  
No.4317/2017 (u/O VI R-17 r/W O-XXII R-10 CPC)  
SANDISK CORPORATION ..... Plaintiff

Through: Mr. Prithvi Singh & Mr. Utkash  
Joshi, Advs.

Versus

NEETOO & ANR ..... Defendants

Through: Ms. Nusrat Hussain, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **26.02.2018**

1. Applications of the plaintiff under Order VI Rule 17 read with Order XXII Rule 10 CPC, under Order XXXIX Rules 1&2 CPC and Order XXXIX Rule 2A CPC are for consideration.
2. The counsel for the plaintiff states that the name of the plaintiff has been changed from Sandisk Corporation to Sandisk LLC.
3. I have heard the counsel for the sole defendant Ramakant Mishra.
4. The application under Order VI Rule 17 read with Order XXII Rule 10 CPC is allowed and the amended plaint dated 28<sup>th</sup> March, 2017 is taken on record.
5. The counsel for the sole defendant (it is told that the suit with respect to another defendant originally impleaded in the suit has already been settled) states that the defendant is merely a hawker and has been willing to suffer a decree for permanent injunction as sought and has no financial means to contest the suit.

6. The counsel for the plaintiff states that earlier also, settlement was finalized and part amount agreed to be paid by the defendant of Rs.50,000/- out of the total agreed amount of Rs.1.50 lacs was received but the defendant subsequently reneged from the same and the amount of Rs.50,000/- received was returned.

7. The counsel for the defendant controverts and states that settlement was for Rs.50,000/- only and the plaintiff subsequently wanted Rs.1.50 lacs.

8. This being a commercial suit, need to keep the same pending for adjudication on the aforesaid limited aspect especially when the counsel for the defendant has stated that the defendant does not desire to contest the substantial relief in the suit is not felt.

9 The amount payable by the defendant to the plaintiff, considering all the facts and the fact that an application under Order XXXIX Rule 2A of the CPC filed by the plaintiff against the defendant is also pending consideration, is assessed at Rs.1.10 lacs.

10. A decree is accordingly passed in favour of the plaintiff and against the defendant, of a) permanent injunction in terms of prayer paragraph 19(a), (b) and (c) of the plaint dated 28<sup>th</sup> March, 2017; b) recovery of Rs.1.10 lacs; if the said amount is not paid on or before 7<sup>th</sup> March, 2018, the said amount shall incur interest at the rate of 15% per annum with effect from today, till the date of payment / realization; c) destruction, on or before 7<sup>th</sup> March, 2018, of the goods assessed by the Court Commissioner appointed twice in the suit; and, d) of recovery of costs in the sum of Rs.20,000/-.

Decree sheet be drawn up.

**RAJIV SAHAI ENDLAW, J**

**FEBRUARY 26, 2018/‘gsr’..**

*CS(COMM) 240/2016*

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