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

+ **CS(COMM) 816/2018 & I.As. 5493/2018 AND 5495/2018**

DKH RETAIL LIMITED Plaintiff

Through: Mr. Pravin Anand, Advocate with
Mr. Shamim Norreyezdan and
Mr. Nischay Mall, Advocates.

versus

DEEPAK CHADDHA & ANR. Defendants

Through: Mr. Ankit Mangla, Advocate with
Mr. Sahil Singhal, Advocate for
defendants No.1 and 2.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

% **ORDER**
19.11.2018

Present suit has been filed for permanent injunction restraining infringement of trade marks, passing off, unfair competition, dilution and tarnishment, damages or rendition of accounts, delivery up etc.

On 27th August, 2018, the present suit was referred to the Delhi High Court Mediation and Conciliation Centre.

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

A Settlement Agreement has been executed between the parties on 13th November, 2018. The parties are in further agreement that the goods handed over on Superdari to the defendants, shall be destroyed on 29th November, 2018 at 4:00 p.m.

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.

Consequently, present suit is decreed in terms of paragraph 46(i), (ii) and (iii) of the plaint as well as the aforesaid Settlement Agreement dated 13th November, 2018 executed between the parties, which is marked as Ex.C-1.

Registry is directed to prepare a decree sheet in terms thereof.

Registry of this Court is also directed to issue to an authorised representative of the plaintiff a certificate authorizing him/her to receive back from the Collector full amount of the Court fee paid by it in the present suit.

Learned counsel for the plaintiff is granted liberty to approach the Reserve Bank of India for remittance of the money paid by the defendants to the plaintiff's counsel.

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

MANMOHAN, J

NOVEMBER 19, 2018

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