

\$~21

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

+ CS(COMM) 1139/2018 & I.A.No.13114/2018

OKAYA POWER PVT. LTD.

..... Plaintiff

Through Mrs.Bindra Rana with Ms.Parul singh
and Ms.Tulip De, Advocates with
Mr.Manin Sharma, A.R. of the
plaintiff.

versus

MUELEX ELECTRO SYSTEM & ORS.

..... Defendants

Through Mr.Amit Tomar, Advocate for D-1 &
2.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

%

07.12.2018

Present suit has been filed for permanent injunction restraining the infringement of trade mark, passing off, acts of unfair competition, dilution, damages and/or rendition of account etc.

Today Mr.Amit Tomar, Advocate enters appearance on behalf of defendant nos.1 & 2. He orally prays for recall of the order dated 05th December, 2018 to the extent that defendant nos.1 & 2 were proceeded *ex parte*. Learned counsel for the plaintiff has no objection to the same.

Accordingly, the order dated 05th December, 2018 proceeding *ex parte* against defendant nos.1 & 2 is recalled.

After some arguments, learned counsel for defendant nos.1 & 2 states that he has no objection if the present suit is decreed in accordance with the paragraph 36(a), (b), (c), (f), (g) and (j) of the plaint. He prays that the costs be quantified at Rs.3 lakhs to be paid in three equated monthly instalments. He states that the first instalment would be paid on 15th January, 2019.

Learned counsel for defendant nos.1 & 2 also undertakes that the defendants shall withdraw the TM application No.3933508 in Class 11, within a period of two weeks.

In view of the aforesaid statements/undertakings, learned counsel for the plaintiff, on instructions of Mr.Manin Sharma, authorised representative as well as vice-president of the plaintiff-company, who is personally present in Court, states that the plaintiff does not wish to press the present suit for any other or further relief.

The statements/undertakings given by learned counsel for defendant nos.1 & 2 are accepted by this Court and the said defendants are held bound by the same.

Consequently, the present suit is decreed in accordance with the statements made by learned counsel for the parties as well as paragraph 36(a), (b), (c), (f), (g) and (j) of the plaint. The defendants are directed to pay the costs of Rs.3 lakhs to the plaintiff in three equated monthly instalments commencing 15th January, 2019. Registry is directed to prepare a decree sheet accordingly.

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

MANMOHAN, J

DECEMBER 07, 2018
KA