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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 1171/2018 & I.A. 13973/2018**  
**HEALTH & GLOW PRIVATE LIMITED** ..... Plaintiff  
Through: Mr. Pravin Anand & Mr. Akshay  
Aggarwal, Advocates (M-  
9899926591).

versus

**RAJENDRA CHOUDHARY** ..... Defendant  
Through: Mr. Ramakshankar & Mr. Shivam  
Garg, Advocates (M-9650920980).

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **07.12.2018**

1. Plaintiff has filed the present suit for permanent injunction seeking a restraint against the use of the mark/name '*HEALTH & GLOW*' by the Defendant for its store in Hauz Khas, New Delhi.
2. The Plaintiff is the registered proprietor of the mark '*HEALTH & GLOW*' in various classes including 3, 5 & 35. In an earlier litigation where the Plaintiff sought enforcement of the mark '*HEALTH & GLOW*', the Defendant therein had been directed to change the mark '*HEALTH & GLOW CLINIC*' to 'H & G Clinic', as per the orders of the Supreme Court. It is, thus, submitted by the Ld. Counsel for the Plaintiff that the mark of the Plaintiff has been accorded protection.
3. The Defendant is using the mark Health & Glow Wellness Store in Hauz Khas, New Delhi. The affidavit of the investigator, which was filed on record, states that the Defendant is not selling any products under the said

mark, but is merely using the same on the display board outside the store and on stationery.

4. The present suit was first listed on 9<sup>th</sup> October, 2018 on which date, a limited ad-interim order was passed to the following effect:

*“13. Considering the contents of the affidavit of the investigator, it is directed that the Defendant shall not open any new store under the name ‘HEALTH & GLOW’ till the next date. The proprietor of the Defendant Mr. Rajendra Choudhary is directed to be present in Court on the next date. Compliance of Order XXXIX Rule 3 CPC be made within three days.”*

5. The Defendants put in their appearance thereafter and submitted that the Defendant is willing to change the name of their store if some time is given to them. Accordingly, the statement was made by Mr. Pankaj Aggarwal who is the son of Mr. Babu Ram Aggarwal– the proprietor of the Defendant’s store by the name ‘*Health & Glow Wellness*’ at E-34, Main Market, Hauz Khas, New Delhi-110016.

6. On the last date, the Defendant suggested that he wishes to adopt the name ‘*Health and Beauty Wellness*’. However, in view of the submissions made by parties, the parties have now agreed that the Defendant would use the name ‘*Beauty and Health Wellness*’ for the store operating from E-34, Main Market, Hauz Khas. The Plaintiff is agreeable not to press for rendition of accounts or damages in the present case.

7. Accordingly, the disputes in the suit have been resolved between the parties on the following terms:

- i) The Defendant undertakes and agrees not to use the trademark/name ‘*Health and Glow*’ for his retail stores or any other

products/services w.e.f. 1<sup>st</sup> April, 2019.

ii) The Plaintiff has no objection if the Defendant uses the name '*Beauty and Health Wellness*' for the retail outlet of the Defendant. The Defendant is permitted to use the name '*Beauty and Health Wellness*' or any other name/mark which is not identical or deceptively similar to the Plaintiff's mark '*Health and Glow*' w.e.f. 1<sup>st</sup> April 2019.

iii) The Plaintiff agrees to give up the reliefs of rendition of rendition of account/damages and costs.

8. The suit is accordingly decreed in terms of the settlement terms recorded above. There shall however be a permanent injunction restraining the Defendant from using the mark/name '*Health and Glow*' or any other mark or name identical or deceptively similar to the Plaintiff's mark '*Health and Glow*' w.e.f. 1<sup>st</sup> April, 2019. The Defendant is however free to use the name '*Beauty and Health Wellness*' or any other name, within the broad contours of the present settlement terms.

9. No other reliefs are pressed for. Decree sheet be drawn accordingly.

10. In view of the fact that the suit has been settled at a nascent stage between the parties, 50% Court fee is refunded to the Plaintiff. All pending I.As are stand disposed of.

**PRATHIBA M. SINGH, J.**

**DECEMBER 07, 2018**

*Rahul*