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

+ **CS(COMM)No.218/2020 & I.A.No.5113/2020**

USV PRIVATE LIMITED

....Plaintiff

Through : Mr. Prithvi Singh and Ms. Pritika
Kohli, Advs.

versus

MARTIN AND BROWN BIO SCIENCES

....Defendant

Through : Mr. R.D Singh, Mr. Lakshay Kumar
and Mr. Sahil Khurana, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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14.07.2020

[Court hearing convened *via* video-conferencing on account of COVID-19]

I.A.No.5607/2020

1. The parties in the matter, pursuant to the last hearing, have filed the captioned application, *albeit* jointly, to place on record the settlement arrived at between them.

2. The terms of the settlement are contained in paragraph 3 (a) to (e) of the captioned application.

2.1 Furthermore, the defendant has also agreed to pay a sum of Rs. 1,00,000/- to the plaintiff, as set forth in paragraph 5 of the captioned application.

2.2 I am told by learned counsel for the defendant that the defendant has agreed to pay the said amount towards costs and damages.

CS(COMM)No.218/2020

page 1 of 4

Signature Not Verified

digitally signed by VIPIN
KUMAR RAY
signing date 16.07.2020
09:42

2.3 Learned counsel for the plaintiff affirms this position.

3. The amount, as recorded in paragraph 5 of the application, is required to be transmitted by the defendant to the plaintiff *via* the designated account, the details of which are provided therein.

4. Certain general undertakings are also set out in paragraphs 6 and 7 of the captioned application.

5. The defendant has also agreed that the suit may be decreed in terms of the reliefs set forth in paragraph 39 (a) [sic: 38 (a)] and 39 (b) [sic: 38 (b)] of the plaint.

6. To my mind, the terms of agreement are lawful, save and except, the provision made in paragraph 4 of the captioned application to the extent it provides for penalty in case there is a breach by the defendant of the compromise terms recorded therein.

6.1 Therefore, paragraph 4 of the captioned application is modified to the extent that in case the defendant is found to be in breach of the terms of the settlement, it will be mulct with damages which are reasonable and that the damages will not exceed INR 1,00,000/- per infringed product.

6.2 Counsel for the parties are agreeable to the modification made. Their statement, in that behalf, is taken on record.

7. To be noted, the captioned application has been signed by both, the learned counsel for the plaintiff as well as the defendant. The captioned application is also accompanied by the affidavits of the constituted attorneys of the plaintiff and defendant, namely, Mr. Sudhir Prabhakar Thatte and Mr. Puneet Maini respectively.

8. I may note that the captioned application is also accompanied with the new label that the defendant intends to use *vis-à-vis* its product.

8.1 The aforementioned label is marked as document 'A'.

9. Accordingly, as prayed, the captioned application is taken on record. The suit is decreed in terms of prayer clause 38 (a) to (c) of the plaint.

10. Insofar as the relief prayed for in prayer clause 38 (d) and (e) of the plaint is concerned, as agreed by learned counsel for the parties, the defendant will pay a consolidated amount of Rs.1,00,000/-, in the manner indicated in paragraph 5 of the application, *albeit*, towards costs and damages.

11. The terms of the settlement and undertakings recorded in the captioned application, along with the modification carried out in paragraph 4, as indicated hereinabove, shall form part of the decree.

11.1 The application and the document 'A' will, accordingly, form part of the decree.

12. The Registry will mark the captioned application as 'Ex. P-1' and the document 'A' as 'Ex. P-2'.

13. The Registry will draw-up a decree in the aforesaid terms.

14. As the settlement has been arrived at an early stage, I am of the view that 50% of the court fee payable by the plaintiff ought to be exempted. It is ordered accordingly. The Registry will take necessary steps in that regard.

CS(COMM)No.218/2020 & I.A.No.5113/2020

15. In view of the order passed in I.A.No.5607/2020, the suit is disposed of in the aforesaid terms.

16. Resultantly, the pending application shall stand closed.

JULY 14, 2020
Aj/KK

RAJIV SHAKDHER, J

[Click here to check corrigendum, if any](#)

CS(COMM)No.218/2020

page 4 of 4