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

+ **CS(COMM) 719/2019**

RETAIL ROYALTY COMPANY & ANR. Plaintiffs

Represented by: Mr.Dushyant Mahant and Ms.Urfee
Roomi, Advocates with Mr.Vijay
Malhotra, AR of the plaintiffs in
person.

versus

GUARDIAN ASSESSMENT PRIVATE LIMITED..... Defendant

Represented by: Mr.Sanad Ramakrishnan and
Mr.Rajeev Mishra, Advocates.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

28.02.2020

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1. Plaintiff has filed the present suit inter alia seeking a decree of permanent injunction restraining the defendant, its agents etc. from advertising, marketing and offering whether directly or indirectly, or whether on the internet or otherwise any goods or services bearing Eagle device which is identical to or deceptively similar to the plaintiff's mark thereby infringing the plaintiff's trademark and passing off the goods and services of the defendant as that of the plaintiffs as also infringing the plaintiffs' copyrights besides dilution of the mark.

2. During the pendency of the present suit, parties were referred to mediation and a settlement has been arrived at between the parties. Copy of the settlement agreement dated 25th February, 2020 has been placed on record.

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3. Plaintiffs and defendant have entered into the settlement on the following terms and conditions:

1. *It is agreed between the parties that the Second Party will immediately cease any and all uses of the eagle device incorporated in the GUARDIAN & Eagle Device mark as shown in ANNEXURE – C, whether alone, or in conjunction with other words and/or devices.*
2. *The Second Party undertakes that it will never use, at any time in future, the Flying Eagle Device mark as shown in ANNEXURE – D or a mark that is deceptively similar to the Flying Eagle Device mark of the First Party, whether alone, or in conjunction with other words and/or devices.*
3. *The Second Party agrees and undertakes to withdraw Application No. 3912555 filed to register the GUARDIAN & Eagle Device mark before the Trademark registry within 15 days from the date of signing of the present Settlement Agreement.*
4. *The Second Party further agrees and undertakes that it will not, at any future time, file any trademark or copyright application(s) to register the Flying Eagle Device mark or a mark that is deceptively similar to the Flying Eagle Device mark of the First Party, whether alone, or in conjunction with other words and/or devices.*
5. *It is agreed between the parties that the Second Party will never, now or in the future, challenge, or take any action against, First Party's rights in the Flying Eagle Device mark of the First Party or any device of a bird, including, but not limited to, the device of an eagle, that the First Party may create or adopt in the future;*

6. *It is agreed between the parties that the Second Party will pay to the First Party a sum of Rs. 50,000/- (Rupees Fifty Thousand only) as damages towards the present suit in two equal instalments of Rs. 25,000/- each on or before 28.02.2020 and 11.03.2020 respectively via bank transfer into the bank account of counsel of the First Party. The account details of the counsel of the First Party are as under:-*

NAME : SUJATA CHAUDHRI IP ATTORNEYS
BANK NAME : AXIS BANK LTD.
CURRENT ACCOUNT NO.: 914020022909462
IFSC CODE : UTIB0001149

7. *Both the parties agree to be bound by the terms and conditions of this present Settlement Agreement and further undertake that they shall neither challenge nor violate the terms and conditions of this Settlement Agreement under any circumstances.*

8. *It is agreed between the parties that a decree may be passed by the Hon'ble Court in terms of the present Settlement Agreement. The parties understand that in case the decree so passed by the Hon'ble Court is not complied with or any default is committed by either of the parties, the other party shall be at liberty to execute the said decree against such defaulting party in the court of law.*

9. *The Hon'ble Court may consider refund of the court fees to the First Party or to their counsel in terms of Section 16 of the Court Fees Act, 1870 read with Section 89 of the Code of Civil Procedure.*

4. The settlement agreement is duly signed by Mr.Vijay Malhotra and Mr.Ajay Bajpai, authorised representatives of plaintiff Nos.1 and 2 and of defendant respectively. Authorisation in favour of Mr.Vijay Malhotra and in favour of Mr.Ajay Bajpai, Director of defendant are annexed with the copy of the settlement agreement as Annexures-A and B.

5. Mr.Vijay Malhotra and Mr.Ajay Bajpai are present in Court and are identified by their respective counsels. They affirm the settlement arrived at between the parties and undertake to abide by the terms of settlement.
6. Consequently, the suit is decreed in terms of the settlement arrived at between the parties.
7. Decree sheet will incorporate the terms of settlement.
8. Court fee be refunded to the learned counsel for the plaintiffs in terms of Section 16 of the Court Fees Act in terms of Clauses 6 and 9 of the settlement agreement.
9. Registry will issue necessary certificate in this regard.

I.A. 18260/2019 (under Order XXXIX Rule 1 and 2 CPC)

Application is disposed of as infructuous.

MUKTA GUPTA, J.

FEBRUARY 28, 2020
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