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

+ CS(OS) 1540/2006

HINDUSTAN LEVER LTD. Plaintiff

Through: Mr. Aviral Tiwari & Mr. R.P. Singh,
Advs. with Mr. Sanaullah Khan, Sr.
Legal Executive of the plaintiff.

Versus

PRADEEP KUMAR KATIYAR AND ORS. Defendants

Through: Mr. Sourabh Gupta & Mr. Tarun
Arora, Advs. for D-1&3.

AND

CS(OS) 1541/2006

HINDUSTAN LEVER LTD. Plaintiff

Through: Mr. Aviral Tiwari & Mr. R.P. Singh,
Advs. with Mr. Sanaullah Khan, Sr.
Legal Executive of the plaintiff.

Versus

VINOD KUMAR MALHOTRA AND ORS. Defendants

Through: Mr. Rajeev K. Agarwal, Adv. for D-
3&4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **07.01.2020**

IA No.33/2020 in CS(OS) No.1540/2006 & IA No.104/2020 in CS(OS) No.1541/2006 (both of the plaintiff under Order XXIII Rule 1 of the CPC).

1. The plaintiff seeks to unconditionally withdraw the two suits on the basis of the compromise arrived at with the defendants in both the suits and as recorded in the documents filed along with the applications.
2. The counsel for the defendants no.1 and 3 in CS(OS) No.1540/2006 and the counsel for defendants no.3 and 4 in CS(OS) No.1541/2006 appear on advance notice.

3. While the counsel for defendants no.3 and 4 in CS(OS) No.1541/2006 has no objection, the counsel for the defendants no.1 and 3 in CS(OS) No.1540/2006 states that though he has no objection but proceedings in CS(OS) No.1540/2006 have been stayed by the Division Bench of this Court, in FAO(OS) No.22/2018 preferred by the defendant no.1.
4. None appears for the other defendants.
5. The counsel for the plaintiff states that the defendant no.2 Usha Sabharwal in CS(OS) No.1540/2006 has not been appearing since 2014 and defendants no.4 and 5 in CS(OS) No.1540/2006 were served with summons of the suit by publication and have never appeared.
6. With respect to CS(OS) No.1541/2006 it is informed that defendants no.1 and 5 have been served with advance copy of the application and defendant no.2 has expired and his heirs have not been impleaded and defendants no.6 and 7 were served through publication and have never appeared. On further enquiry, it is stated that the consent terms in CS(OS) No.1541/2006 have been entered into by the plaintiff only with the defendant no.5, a partnership firm, of which defendants no.1 to 4 were partners.
7. Need to await the non-appearing counsels is not felt.
8. On further enquiry, it is stated that FAO(OS) No.22/2018 has been preferred against the order dated 8th December, 2017 in CS(OS) No.1540/2006 dismissing the OA No.162/2017 filed by defendants no.1 and 3 for modification of the orders dated 25th July, 2016 and 26th July, 2016.

9. Vide orders dated 25th July, 2016 and 26th July, 2016, IA No.8687/2016 of the plaintiff under Order XVI Rule 1 of the CPC was disposed of by permitting the plaintiff to rely upon certified copies of record of Criminal Case No.7599/2006 of Police Station Nazeerabad, titled “State Vs. Krishan Dwivedi” and by permitting the defendants to inspect the original documents from the record of the criminal case.

10. In view of the aforesaid pendency of FAO(OS) No.22/2018 does not come in the way of allowing the applications.

11. The applications are allowed and disposed of.

CS(OS) Nos.1540/2006 & 1541/2006

12. The suits are dismissed as withdrawn with no order as to costs.

13. The dates already given of 26th February, 2020 in CS(OS) No.1540/2006 and 26th March, 2020 in CS(OS) No.1541/2006 are cancelled.

RAJIV SAHAI ENDLAW, J

JANUARY 07, 2020

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