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

% ***Date of decision: 27.07.2021***

+ CS(OS) 149/2020 & I.A. 4818/2020

UTTAM CHAND RAKESH KUMAR & ORS. Plaintiffs
Through: Mr. Satyam Dwivedi, Advocate

Versus

DERCO FOODS & ANR. Defendants
Through: Mr. Amit Pal, Advocate

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

IA No. 9019/2021 (u/O XXIII R 1 r/w Sec. 151 CPC)

1. The plaintiffs claim to be market leaders in the Tree Nut Industry, specialising in import and sale of dry fruits, especially almonds and engaged in the business for over 42 years, thereby establishing a goodwill and reputation in the industry. Plaintiffs are said to be having an international presence and conduct business in various countries including United States of America, Australia, Singapore, Hong Kong, Dubai, Iran, Turkey, Afghanistan and they were carrying business with defendant No. 1 herein.
2. According to plaintiffs, during the course of transactions between

plaintiffs and defendants some dispute arose and the contract was cancelled, however, defendants on 02.06.2020 published and shared with 1450 entities across the world, defamatory content against the plaintiffs. Another defamatory content was issued by the defendants against the plaintiffs on 22.06.2020.

3. The Plaintiffs have filed the present suit seeking, *inter alia*, permanent and mandatory injunction against the defendants from publication of false, misleading and defamatory content pertaining to the plaintiffs and damages on account of the said publication.

4. Today, learned counsel for the plaintiffs submits that an out of Court settlement has been arrived resolving the controversy between the parties and this is how this application under the provisions of Order XXIII Rule 1 r/w Sec. 151 CPC has been filed.

5. Learned counsel for the plaintiffs submit that the dispute *inter se* parties stand resolved in terms mentioned in the Settlement Agreement dated 01.06.2021 and in terms thereof, parties shall enter into a stipulated judgment in the proceedings before United States District Court, Eastern District of California. Further submitted that in terms of settlement, the plaintiffs have agreed to withdraw the present suit.

6. Hence, it is prayed that plaintiffs be permitted to withdraw the present suit. Further prayed that since the settlement falls under the ambit of Section 89 CPC and therefore, the eligible fee be refunded.

7. At this stage, learned counsel for the plaintiffs submits that plaintiffs be permitted to withdraw the present suit, while giving liberty to file an application seeking refund of court fees.

8. I have gone through the contents of the application. The application in hand is duly signed by plaintiffs No. 1, 3 & 4 and is also supported with their affidavits and on behalf of plaintiff Nos.2 & 3 as well.

9. For the reasons stated in the application, the same is allowed and plaintiffs are permitted to withdraw the present suit, while giving liberty to plaintiffs to file separate application seeking refund of court fees.

10. The application is accordingly disposed of.

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11. In view of orders passed in IA No. 9019/2021, plaintiffs are permitted to withdraw the present suit.

12. The present suit and pending application are accordingly dismissed as withdrawn.

(SURESH KUMAR KAIT)
JUDGE

JULY 27, 2021/r

CS(OS) 149/2020