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

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Date of decision: 13.07.2021

(i) + **CS(COMM) 334/2020 & I.A. 7123/2020**

MR KUNAL KHANDELWAL Plaintiff

Through: Mr. Daves Vashishtha, Advocate
with plaintiff in person

Versus

BENNETT, COLEMAN AND COMPANY LIMITED

..... Defendant

Through: Ms. Mamta R Jha & Mr. Vipul K.
Tiwari, Advocate with Mr. Sanjay K.
Agarwal, Authorized Signatory

(ii) + **CS(COMM) 423/2020 & I.A. 9041/2020**

BENNETT, COLEMAN AND COMPANY LIMITED

..... Plaintiff

Through: Ms. Mamta R Jha & Mr. Vipul K.
Tiwari, Advocate with Mr. Sanjay K.
Agarwal, Authorized Signatory

Versus

MR KUNAL KHANDELWAL Defendant

Through: Mr. Daves Vashishtha, Advocate
with defendant in person

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.

I.A. No. 8222/2021 (u/O XXIII Rule 3 r/w Sec. 151 CPC) in CS(COMM) 423/2020

1. The present suit for permanent injunction restraining infringement of trade mark, passing off, rendition of accounts of profits/damages, delivery up etc. restraining the defendants its partners, associates, assigns in business, licensees and or franchisees and any other person claiming right through it for use of trade mark 'ZOOM STOCKS'  or any other identical or deceptively similar trade mark in respect of goods and services falling under class 9, 35, 41 and 42 in any manner including advertising, promoting through any platform including online platforms or by any other means or dealing in any manner directly or indirectly amounting to infringement of plaintiff's registered trade mark, stands settled between the parties, which has led to filing of the joint application in hand, which is duly signed by Mr. Sanjay K. Agarwal, Authorized Signatory of plaintiff and Mr. Kunal Khandelwal, defendant in person as well as their respective counsels and is also accompanied by the affidavit of the parties.

2. Learned counsel for the parties submit that the terms of settlement are

recorded in Paragraph No. 2(i) to 2(x) of the application and parties shall abide by the terms thereof.

3. For the reasons stated in the application, it is allowed. The suit stands decreed in terms mentioned in Paragraph No. 2(i) to 2(x) of IA No. 8222/2021, which shall form part of the decree. Decree sheet be accordingly drawn.

4. The application is disposed of.

CS(COMM) 423/2020 & I.A. 9041/2020 (u/O 39 R 1 and 2 r/w Sec. 151 CPC)

5. For the reasons stated in IA No. 8222/2021, the suit of plaintiff is decreed in terms prescribed in Paragraph No. 2(i) to 2(x) of IA No. 8222/2021, which shall form part of the decree. Decree sheet be accordingly drawn.

6. With aforesaid directions, the present suit and pending application are accordingly disposed of.

CS(COMM) 334/2020 & I.A. 7123/2020 2020 (u/O 39 R 1 and 2 r/w Sec. 151 CPC)

7. The present suit seeking decree in favour of the plaintiff declaring that the threats issued by defendant vide impugned Notice dated 06.08.2020

groundless and illegal; plaintiff's adoption and use of the words "Zoom Stocks" in any manner does not infringe the registered trade mark of defendant and does not amount to passing off and for a permanent injunction restraining the defendant including their servants, agents, associates etc. from circulating threats or advertisement of any form of communication, including visual media and online platforms which may damage or cause harm to the reputation of plaintiff, has been amicably settled with defendant in terms prescribed in IA No. 8222/2021 in CS(COMM) 423/2020.

8. Learned counsel for the parties submit that in terms prescribed in Paragraph No. 2(i) to 2(x) of IA No. 8222/2021 in CS(COMM) 423/2020, this suit has to be withdrawn by the plaintiff.

9. At this stage, learned counsel for plaintiff seeks permission of the Court to withdraw the present suit and pending application.

10. Learned counsel for the parties pray for refund of court fees under the provisions of Section 16A of Court Fees (Delhi Amendment) Act, 2010 as the suit has been settled out of court ending in a decree before any evidence on the merits of the claim.

11. The Registry shall refund 50% of the Court fees under Section 16A of the Act to the parties.

12. Accordingly, the present suit and pending application are dismissed as withdrawn.

(SURESH KUMAR KAIT)
JUDGE

JULY 13, 2021

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