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

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Date of decision: 04.08.2021

+ CS(COMM) 566/2020

GEORGES MONIN SAS AND ANR.Plaintiffs

Through: Mr. Atul Nagarajan, Advocate

Versus

PEKERS AND COMPANY & ORS.Defendants

Through: Mr. Roshan Santhalia & Ms.Pooja
Jakhar, Advocates

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. 9504/2021 (u/O XXIII R 3 CPC)

1. The present application has been jointly made by both the sides praying for issuance of decree in terms of Settlement Agreement dated 24.06.2021 reached between the parties and for refund of court fees.
2. The present suit has been filed by the plaintiff for permanent injunction restraining the defendants from infringing/ passing off of trade dress/design and shape of bottles of the plaintiff No.1, used for syrups, and for damages and rendition of account.
3. Vide order dated 24.02.2021, the matter was referred to Delhi High

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Court Mediation and Conciliation Centre for parties to explore possibility of settlement through mediation.

4. Learned counsel for the parties inform that subject matter of the suit has been amicably resolved in terms of Settlement Agreement dated 24.06.2021 passed by Delhi High Court Mediation and Conciliation Centre, wherein terms of settlement have been incorporated in paragraph Nos. 1 to 3 and parties shall abide by the terms thereof.

5. Learned counsel for plaintiff prays that the present suit be decreed in aforesaid terms and also under the provisions of Section 16 of the Court Fees Act, 1870 read with Section 89 of CPC, the Court fee of Rs.2,10,000/- (Rupees Two Lakh and Ten thousand only) be refunded to the plaintiff/ Authorized Representative of the plaintiff.

6. The present application is signed by learned counsel representing both the sides and is accompanied by affidavit of Authorized Representative/Signatory of plaintiff, Authorized Signatory of defendants No.1 & 2 and Proprietor & Authorized Signatory of defendant No.3. A report from Mediation and Conciliation Centre of this Court has been placed on record wherein it is recorded that parties have amicably resolved their disputes in terms of Settlement Agreement dated 24.06.2021.

7. This Court has gone through the terms of settlement incorporated in the Settlement Agreement dated 24.06.2021 and find it to be valid and lawful.

8. Accordingly, the present joint application filed by the parties is allowed. The suit is decreed in terms mentioned in Paragraph Nos. 1 to 3 of the Settlement Agreement dated 24.06.2021, which shall form part of decree sheet. Decree sheet be accordingly drawn.

9. A Division Bench of this Court in ***Nutan Batra Vs. M/s. Buniyaad Associates 2018 SCC OnLine Del 12916***, while relying upon decision of Hon'ble Supreme Court in ***Afcons Infrastructure Limited v. Cherian Varkey Construction Company Private Limited*** (2010) 8 SCC 24, had allowed an appeal against the order of refusal of refund of entire court fee in a suit. Further, a Coordinate Bench of this Court in ***Munish Kalra Vs. Kiran Madan and Others 2019 SCC OnLine Del 8021*** taking into account the fact that the dispute stands amicably settled between the parties, had relied upon decisions in ***Afcons Infrastructure Limited (Supra)*** and ***Nutan Batra (Supra)*** and directed refund of the entire court fees.

10. Concurring with afore-noted decisions, the plaintiff is entitled to refund of entire court fees. Registry is directed to issue necessary certificate/

authorization in favour of the plaintiff to seek refund before the appropriate authorities.

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11. In view of orders passed in IA No. 9504/2021 (u/O XXIII R 3 CPC), the present suit is decreed in terms mentioned in paragraph Nos. 1 to 3 of the Settlement Agreement dated 24.06.2021 reached through Delhi High Court Mediation and Conciliation Centre between the parties. Decree sheet be accordingly drawn.

12. The plaintiff is also entitled to refund of entire court fee in terms of orders passed in IA No. 9504/2021.

13. Pending applications are disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

AUGUST 04, 2021

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