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C.S.(Comm.Div.) No.22 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY**

C.S.(Comm.Div.) No.22 of 2021
and O.A.Nos.427, 428 of 2021
and A.No.2451 of 2021

1.Preeti

2.Kosmos Global, a Proprietary Concern

Represented by its Proprietor Mr.Piyush Jain

No.20, Revanayer Street,

Park Town, Chennai - 600 003.

... Plaintiffs

VS.

Suresh R.Jain

... Defendant

PRAYER: Plaint filed under Order IV Rule 1 of Original Side Rules and Order VII Rule 1 of CPC, Sections 27(2), 134 and 135 of the Trademarks Act, 1999 and Sections 51, 55 and 62 of the Copyright Act, 1957 and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, No.4 of 2016 prayed for Judgment and Decree:-

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(a) Granting permanent injunction restraining the defendant, his men, servants, agents or anyone claiming through or under him from in any manner infringing the plaintiff's registered copyright in the pack / carton by using the offending pack / carton under the name "*Skenique*" or any other name or trademark which is similar or in any way deceptively similar to or colourable imitation of the plaintiff's pack / carton for any hair colour products under the trademark "**BEAUTE BLANC**" or in any manner selling the same.

(b) Granting permanent injunction restraining the defendant, his men, servants, agents or anyone claiming through or under him from in any manner passing off his hair colour products as that of the plaintiff's by using a similar pack / carton under the name "*Skenique*" or any other trademark which is similar or in any way deceptively similar to or colourable imitation of the plaintiff's carton / pack under the trademark "**BEAUTE BLANC**" and in any manner selling the same.



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(c) Directing the defendant to render true and faithful account of profits earned by them through the sale of the product hair colour in a similar or deceptively similar or a colourable imitation of the pack / carton / trade dress bearing the offending name "**Skenique**" and directing payment of such profits to the plaintiffs by way of damages for passing off committed by the defendant.

(d) Directing the defendant to surrender to the plaintiffs the entire stock of unused offending goods under the similar or deceptively similar carton / pack trade dress under names "**Skenique**" together with cartons, labels, printing blocks, boxes etc bearing the name "**Skenique**" for destruction.

(e) Directing the defendant to pay the plaintiff the cost of the suit.

For Plaintiffs : Mr.N.Nithianandham

For Defendant : M/s.Rahul K.Jain



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J U D G M E N T

The suit was filed for alleged infringement of copyright, passing off, rendition of accounts with a decree for profits and surrender of infringing materials. The parties have entered into a settlement. Both parties have submitted a joint memo dated 18.04.2022. Such joint memo is duly signed by both the plaintiffs and the sole defendant. The respective counsel have also signed the joint memo. On perusal thereof, it appears that the defendant has agreed to a decree in terms of prayers (a) and (b) of paragraph 26 of the plaint and the plaintiffs have agreed to relinquish prayers (c) to (e) of paragraph 26 of the plaint. On examining the terms of settlement, there is no legal impediment to the issuance of a decree in terms thereof.

2. Accordingly, C.S.(Comm.Div.) No.22 of 2021 is decreed in terms of the joint memo dated 18.04.2022, which shall form an integral part thereof. Since parties have agreed that the parties shall bear their own costs,



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there will no order as to costs. Consequently, O.A.Nos.427, 428 of 2021
and A.No.2451 of 2021 are closed.

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Index : Yes / No

Internet : Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

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