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

% *Date of Decision: 11th November, 2022*

+ CS(COMM) 961/2018 & I.A. 8022/2018, 16640/2018,
11249/2019, 17175/2021

MR. ANIL RATHI & ORS. Plaintiffs

Through: Mr. Sagar Chandra, Ms. Srijan
Uppal, Mr. Abhishek Bhati and
Mr. Yashasvi Gupta, Advocates.

versus

JAIPUR STEELTECH INDIA PVT LTD & ORS.....Defendants

Through: Mr. Subhash Chawla, Advocate
for D-1, 3, 4 and 5.

Mr. Sudhir Nandrajog, Senior Advocate
with Mr. Subhash Chawla, Mr. Rupib Bahl
and Mr. Karan Bajaj, Advocates for D-2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. An affidavit of undertaking dated 10.11.2022 has been filed by Mr. Ghasi Lal Chaudhary, one of the Directors of Defendant No. 2, relevant portion of which reads as under:-

"2. I say that on 15.09.2017, the defendant No. 2 company namely Nirman Infra Steel Pvt. Ltd. was granted a license for use of the Trade Mark "RATHI" as owned by Trust Rathi Foundation. This license was granted by Sh. Raj Kumar Rathi the Senior Trustee of the Group Cl of the Trust Rathi Foundation duly followed by the terms and conditions of the MOU dated 24.06.1995 and Trust Deed dated 26.06.1995 of the Trust Rathi Foundation. The documents relating to grant of the said license are already form part of the records of this case.

3. I further say that in and around August 2019 the defendant No. 2 stopped manufacturing all products i.e. steel bars bearing Trade mark "RATHI" and thereafter vide letter dated 30.10.2020, the license granted to defendant no. 2 to use the trade mark "RATHI" was formally cancelled by Shri Raj Kumar Rathi the senior most trustee of the Group Cl of Trust Rathi Foundation.

4. I further say that the Defendant No. 2 Company hereby undertakes not to use the Trade Mark "RATHI" as owned by the Trust Rathi

Foundation, in future also. I further say that henceforth the Defendant No. 2 will not manufacture steel bars and other impugned products under the trademark "RATHI", save and except without a valid license and in accordance with law and the Memorandum of Understanding dated 24.06.1995 and Trust Deed dated 28.06.1995."

2. At the outset, Mr. Sudhir Nandrajog, learned Senior Counsel appearing on behalf of Defendant No. 2 submits that due to an inadvertent typographical error in line 5 of paragraph 4 of the affidavit, word 'without' occurs which should be read as 'with'.

3. On oral prayer of learned Senior Counsel for Defendant No. 2, typographical error is corrected. Para 4 of the affidavit will read as follows:-

"....save and except with a valid license and in accordance"

4. Mr. Sagar Chandra, learned counsel for Plaintiffs submits that the Plaintiffs are satisfied with the undertaking given in the affidavit and suit can be decreed in terms of the undertaking given on behalf of Defendant No. 2.

5. Accordingly, suit stands decreed *qua* Defendant No. 2 in terms of the undertaking given on behalf of Defendant No. 2.

6. Learned counsel appearing on behalf of Defendants No. 1 and 3, on instructions, states that the said Defendants have neither used the trademark "RATHI" nor do they intend to use the same in future and that a categorical stand has been taken in writing in the written statement, more particularly, in para 35 of the common written statement filed on behalf of Defendants No. 1 to 5 and 9 to 12.

7. Insofar as Defendants No. 4 and 5 are concerned, learned counsel for Plaintiffs draws the attention of the Court to an order dated 16.10.2019, where a submission was made by learned counsel for Defendants No. 2 to 6, 11 and 12 that the said Defendants, have in the past, issued licenses in accordance with the rights conferred on the

trustees as per the Trust Deed dated 28.06.1995 and that they would confine themselves to issuance of licenses in accordance with the Trust Deed.

8. Adding to the aforesaid statement, learned counsel for Defendants No. 4 and 5 submits that the Defendants shall confine themselves for issue of licenses to the covenants of the Trust Deed and MOU dated 24.06.1995.

9. Learned counsel for the Plaintiffs, on instructions, submits that Plaintiffs do not wish to press any relief against Defendants No. 6 to 15.

10. Suit is accordingly decreed in the aforesaid terms *qua* Defendants 1, 3, 4 and 5. Needless to state the assurances and undertakings given by respective Defendants shall form a part of the decree and bind the parties thereto.

11. Plaintiffs are entitled to refund of the Court Fees deposited by them, in accordance with provisions of Section 16 of the Court Fees Act, 1870 read with Section 89 CPC, 1908.

12. Registry is directed to draw up the Decree sheet.

13. Registry is directed to refund the Court fees deposited by the Plaintiffs.

14. Suit is accordingly disposed of along with pending applications.

JYOTI SINGH, J

NOVEMBER 11, 2022/sn