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C.S. (Comm.Div.) No.25 of 2022 and A.Nos.621 of 2022 and 5244 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**C.S. (Comm.Div.) No.25 of 2022 and
A.Nos.621 of 2022 & 5244 of 2023**

TIL Healthcare Private Limited,
represented by its Authorised representative
Shabeena Thahseen

... Plaintiff

Vs.

1.M/s.Antop Pharma India Limited,
represented by its Director

2.M/s.Astamed Healthcare (India) Private Limited,
represented by its Director
Nayankumar Natwarlal Thakkar

3.M/s.Suitelife Pharmaceutical Ltd.,
represented by its Director

... Defendants

(third defendant impleaded as per order dated
05.08.2022 in A.No.2623 of 2022)

PRAYER: Complaint filed under Order VII Rule 1 of C.P.C. read with Order IV Rule 1 of the Original Side Rules of the Madras High Court, Section 2(1)(C) (xvii) read with Section 7 of the Commercial Courts Act, 2015 and Sections 11, 27, 29, 134, 135 Trademarks Act, 1999 and Sections 14, 51, 55 and 62 of the Copyright Act, 1957 to pass a judgment and decree on the following terms:



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a) A permanent injunction restraining the Defendants, their partners, their employees, officers, servants, agents and all others acting for and on their behalf from manufacturing, selling, distributing, exporting, advertising, offering for sale, any products and in any other manner, directly or indirectly, dealing with any products in the name of “APETAMIN” or any other mark which is similar or identical to the Plaintiff's registered trademark "APETAMIN" amounting to an infringement of the Plaintiff's registered trademarks Nos.511350 and 4145473 in Class 5;

b) A permanent injunction restraining the Defendants, their partners, their employees, officers, servants, agents and all others acting for and on their behalf from manufacturing, selling, distributing, exporting, advertising, offering for sale and in any other manner, directly or indirectly, dealing with any products in the name of “APETAMIN” and/or the Plaintiff's Company logo



amounting to passing off;

c) A permanent injunction restraining each of the Defendants, its partners, directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents, distributors, stockists, representatives, licensees and anyone acting for or on their behalf directly or indirectly, as the case may be, from using the trade dress



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or in any manner whatsoever and from selling, offering for sale, advertising, manufacturing, mentioning on their websites, dealing in any manner whatsoever or otherwise using the lay-out and/or color combination of the trade dress or get-up almost identical to the Plaintiff's trade dress amounting to passing off of its trade dress;

d)A permanent injunction restraining each of the Defendants, its partners, directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents distributors, stockists, representatives, licensees and anyone acting for or on their behalf directly or indirectly, as the case may be from performing any actions, especially using artistic works identical to Plaintiff's original artistic works in its “APETAMIN” label and/or in the Plaintiff's Company logo amounting to infringement of copyright therein;

e)A permanent injunction restraining the Defendants, their partners, their employees, officers, servants, agents and all others acting for and on their behalf from using impugned mark and trade dress





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and the impugned logo



in any of the websites, domain names, social media platforms, mobile application and other intermediaries in any language;

f)The Defendants be ordered to pay the Plaintiff a sum of Rs 34,70,900/- (Thirty four lakhs seventy thousand and nine hundred only) as damages for having committing infringement of the plaintiffs registered trademark, passing off trademark and trade dress, infringement of copyright in respect of the Plaintiff's artwork, dilution and tarnishment of both trademark and copyright in respect of the mark "APETAMIN";

g)A preliminary decree be passed in favour of the Plaintiff directing the Defendants to render true and proper accounts of the profits arising out of the amount of sales generated by the defendant in respect of their alleged activities especially sale and export of products bearing the mark "APETAMIN" and the impugned logo



for their business;

h)To grant order of delivery up of any brochures/printed material and/or any material which infringes Plaintiff's registered trademark "APETAMIN" and the impugned logo;



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i) Costs of the suit.

For Plaintiff : Mr.M.S.Bharath for KRIA LAW

For Defendants : Mr.R.Sathish Kumar for D2

JUDGMENT

It is represented by the counsel for the plaintiff as well as by the counsel for the second defendant that a Memorandum of Compromise dated 28.11.2023 has been entered into between the plaintiff and the second defendant.

2.Learned counsel for the plaintiff seeks permission of this Court to withdraw the suit as settled out of Court. Learned counsel for the plaintiff has also made an endorsement to that effect in the court bundle. The defendants 1 and 3 have already been set exparte by this Court. The settlement reached between the parties has also been duly acknowledged by the learned counsel for the second defendant, on instructions.



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ABDUL QUDDHOSE, J.

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3.After recording the endorsement made by the learned counsel for the plaintiff, this suit is dismissed as settled out of Court.

4.Registry is directed to refund full court fees to the plaintiff. Consequently, connected applications are closed.

15.12.2023

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