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

+ **CS(COMM) 225/2022 & I.A.5557/2022, I.A.1001/2023**

RICA S.P.A

..... Plaintiff

Through: **Mr.Aayushmaan Gauba, Adv.**

versus

M/S HIRAL CHEM & ORS.

..... Defendants

Through: **Mr. Anil Kumar Verma, Adv.**
for D-1 & 2

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (O R A L)

% **06.02.2023**

1. The disputes between the parties stand settled with the intervention of the Delhi High Court Mediation and Conciliation Centre, *vide* settlement agreement dated 8th December 2022 executed between the Plaintiff and Defendants 1 and 2.

The terms of settlement are as under:

"i. The Defendants above named hereby recognize the Plaintiff to be proprietor of the earlier and well - known trade mark "RICA"/"RICA (L)" and its formatives (hereinafter collectively referred to as "earlier and well known trade mark RICA") and the Plaintiff has the exclusive right to the use of the aforementioned trademark in respect of cosmetics and hair removal preparations.

ii. The Defendants further acknowledge that all rights in law, equity or otherwise, in the Plaintiff's earlier and well - known trade mark RICA, vest exclusively with the Plaintiff alone, and further, the Defendants undertake to never to challenge the same anywhere in the world, including in India, for any goods/ services and/ or on any ground(s), whatsoever;

iii. The Defendants undertake to refrain itself, its directors, partners, associates, assignees in business franchisees, licensees, distributors, dealers and agents from using the trademark/ tradename/ domain name REAL RICA Lap/ REALRICA or any

other mark/name as may be deceptively similar to the Plaintiff's trademark RICA.

iv. The Defendants state that there are no existing stocks of finished products under the impugned mark REAL RICA Lap available with them, except for any stocks that may be in the retail channel(s) supplied prior to the date of the order of ex-parte ad interim injunction order dated 08.04.2022 passed by the Hon'ble Court.

v. The Defendants state that they will destroy all stationery, packaging, promotional and publicity material, brochures and pamphlets, labels under the Impugned mark REAL RICA Lap/ REAL RICA within seven (7) days of execution of this Settlement Agreement, with photographic proof of the same being sent to the counsel for the Plaintiff.

vi. The Defendants agree and undertake to remove all references and uses of the impugned mark/name REAL RICA Lap/REAL RICA and/or any other mark which is deceptively and confusing similar or encompasses the Plaintiff's earlier, well-known and registered trade mark RICA from all third party websites as well as social media websites including, but not limited to, Facebook and instagram, within seven (7) days of execution of this Settlement Agreement, with proof of the same being sent to the counsel for the Plaintiff.

vii. The Defendants further undertake that it shall not attempt to file any trademark application for the trademark REAL RICA Lap/ REAL RICA or any other mark as may be deceptively similar to the Plaintiff's trade mark RICA. The Defendant undertakes not to challenge or oppose any of the Plaintiff's trademark RICA anytime in future.

viii. The Defendants No. 1 and 2 undertake to pay a sum of INR 1,00,000.00 (Indian Rupees One Lakh Only) In lieu of damages to the Plaintiff in the name of Its exclusive distributor "Esskay Beauty Resources Private Limited" by way of a Demand Draft Payable at New Delhi. The Defendants agree that the said sum shall be tendered in three (3) instalments each being 4 weeks apart as per the payment schedule below (which shall not be extended or modified under any circumstances):

a. A Sum of INR 30,000.00 (Indian Rupees Thirty Thousand Only) on execution of this Settlement Agreement;

b. A Sum of INR 30,000.00 (Indian Rupees Thirty Thousand Only) on or before January 08, 2023;

c. A Sum of INR 40,000.00 (Indian Rupees Forty Thousand Only) on or before February 08, 2023;

ix. The Defendants hereby agree that the Plaintiff shall not be liable in any manner whatsoever, whether legal or otherwise arising from the goods provided by the Defendants under the impugned mark and the Defendants shall indemnify and hold harmless the Plaintiff from any cost or claim of damages arising from it.”

2. Learned Counsel for the parties, who are present, submit that Defendant 3 is merely a seller of Defendants 1 and 2 on Amazon and is not, therefore, a necessary party to the settlement between the Plaintiff and Defendants 1 and 2.

3. Learned Counsel also undertake on behalf of their respective clients to remain bound by the terms of settlement.

4. As such, nothing survives for adjudication in the present suit which is disposed of in terms of the aforesaid settlement agreement dated 8th December 2022. The Registry to draw up the decree sheet accordingly. Miscellaneous applications also stand disposed of.

5. The plaintiff would be entitled to refund of court fees, if any, deposited by it. The refund of court fees be made to learned Counsel for the plaintiff as the plaintiff is situated abroad.

C. HARI SHANKAR, J

FEBRUARY 6, 2023/kr