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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 324/2023**

ZYDUS WELLNESS PRODUCTS LTD Plaintiff
Through: Mr. Sagar Chandra, Ms.
Shubhie Wahi and Ms. Ankita Seth, Advs.

versus

REVANT HIMATSINGKA & ORS. Defendants
Through: Mr. Nakul Gandhi and Ms.
Eshna Kumar, Advs. for Defendant 1

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)
26.05.2023

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CS(COMM) 324/2023, I.A. 9832/2023 (Order XXXIX Rules 1 and 2 of the CPC), I.A. 9833/2023 (Order XI Rule 1(4) of the CPC), I.A. 9834/2023 (Section 151 of the CPC), I.A. 9835/2023 (Section 151 of the CPC) and I.A. 9836/2023 (Section 151 of the CPC)

1. The grievance of the plaintiff in the present plaint stems from two videos, which were uploaded by Defendant 1 on his Instagram profile (@FoodPharmer) and Twitter handle (@TheFoodPharmer). The URLs at which the impugned videos can be accessed, as provided in para 15 of the plaint are <https://www.instagram.com/p/CsIsaDMrMq6/> and <https://twitter.com/thefoodpharmer/status/165737013503080448>. According to the plaintiff, the impugned video disparages GLUCON-D, a product of the plaintiff.



and Twitter, Inc., which were managing and maintaining the Instagram and Twitter platforms, as Defendants 2 and 3. As Twitter Inc. has been taken over by X Corp. at the same address from which Twitter was operating, an amended memo of parties, in which Defendant 3 is shown as X Corp., 8th Floor, The Estate, 121 Dickenson Road, Bangalore, Karnataka- 560 042, is stated to have been filed by the plaintiff. It is not on record. However, the Court is treating Defendant 3 as X Corp., 8th Floor, The Estate, 121 Dickenson Road, Bangalore, Karnataka- 560 042.

3. This Court is spared the exercise of adjudicating of whether the impugned video is, or is not, disparaging of GLUCON-D, as the defendants have, upfront, come up with an undertaking, by way of an affidavit dated 24th May 2023, which may be reproduced thus:

“AFFIDAVIT

I, Revant Himatsingka, son of Mr. Rajiv Himatsingka, aged about 31 years, R/o Mandeville Gardens, Rajiv Apartments, flat 18, 9th Floor, Kolkata-700019, the deponent above named, do hereby solemnly affirm and declare as under:

1. I am the Defendant No. 1 in the captioned suit. I am filing this affidavit pursuant to the order dated 19.05.2023 passed by this Hon'ble Court.
2. The present suit is filed on behalf of Zyduz Wellness Products Limited ("**Plaintiff**") against me, Defendant No. 2 and Defendant No.3, alleging *inter alia* disparagement and defamation of Plaintiff's product Glucon-D in respect of the video uploaded on my Instagram and Twitter accounts.
3. I state that my 'GLUCON-D' video is meant to only be an informative video/content, bringing awareness to consumers about food products. Nonetheless, as a good faith gesture and to avoid any protracted dispute, I had taken down my video pertaining to 'GLUCON-D' from my



Instagram and Twitter accounts. on 18.05.2023.

4. Moreover, in order to conclude the present dispute, I state that I shall not make any more content which refers to or discusses any product of the Plaintiff including 'GLUCON-D'. I further state that I will not bring any further attention to this matter, either by posting any content on my social media platforms or engaging in any interviews, with members of the press/media, about Plaintiff's notice or the suit filed against me by Plaintiff.

5. I state that I deny all claims and allegations put forth against me or my video in the Plaintiffs notice and/or the suit filed against me by the Plaintiff and the present affidavit in no manner be read to be an admission of guilt/liability.

6. I state that in terms of the above I had sent an email dated 18.05.2023 to the counsel for the Plaintiff. A copy of email 18.05.2023 is annexed herewith and marked as Document-1.

I State that this affidavit is to bring a quietus to the present dispute.”

4. In view of the aforementioned undertaking given by the defendant, Mr. Sagar Chandra submits that his client is not interested in pursuing his claim for costs and damages.

5. However, Mr. Sagar Chandra submits that directions may be issued to Defendants 2 and 3 not only to take down the impugned videos from their respective platforms but also, in the event the impugned video is again posted or circulated on their platforms by any third party, to take down the said videos as well, on information in that regard being provided to them by the plaintiff, without the plaintiff having to re-approach the Court for the said purpose.

6. Accordingly, Defendants 2 and 3 are directed not only to take



down the impugned video from their respective platforms but also, in the event the said video is reposted or circulated on either of their platforms, to take down the video on information in that regard being provided to them by the plaintiff, without the plaintiff having to re-approach this Court for the said purpose.

7. Nothing further survives for adjudication in the present case.
8. Accordingly, the suit stands decreed in terms of the undertaking given by the defendants today, as reproduced hereinabove, *vide* affidavit dated 24th May 2023 and additional directions issued to Defendants 2 and 3, as noted hereinabove.
9. Let a decree-sheet be drawn up accordingly.
10. Miscellaneous applications do not survive for consideration and stand disposed of.

C.HARI SHANKAR, J

MAY 26, 2023

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