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

+ **CS(COMM) 517/2022**

KENT RO SYSTEMS LIMITED & ANR. Plaintiffs

Through: Mr. Deepanshu Nagar, Adv. for
Ms. Rajeshwari H., Adv.

versus

BAJRANG IMPEX PRIVATE LIMITED Defendant

Through: Mr. Rahul Vidhani, Ms. Elisha
Sinha and Mr. Prakhar Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

20.01.2023

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1. Mr. Rahul Vidhani, learned Counsel for the defendant, submits, at the very outset, on instructions, that the defendant is willing to suffer a decree in terms of prayers (a), (b) and (c) in para 41 of the plaint, which reads thus:

“41. It is therefore, respectfully prayed that this Hon'ble Court may be pleased to grant the following reliefs in favour of the Plaintiff:

a) A decree for permanent injunction restraining the Defendants, their distributors, dealers, stockists, retailers, servants, agents and all others acting for and on their behalf from manufacturing, selling, importing, offering for sale, advertising and directly or indirectly dealing in any goods/products which are identical or similar or are an imitation or a substantial reproduction of the Plaintiffs Registered Design No. 312406 dated 26.11.2018 amounting to infringement/piracy under the Designs Act;

b) A decree for permanent injunction restraining the Defendants, their distributors, dealers, stockists, retailers, servants, agents and all others acting for and on their behalf from manufacturing, selling, importing, offering for sale, advertising and directly or indirectly dealing in identical

and/or cognate products/services, or otherwise, under the mark AQUA GRAND +, AQUA GRAND SMART or any other trade mark/trade name or logo/device, which is identical to and/or deceptively similar to the Plaintiffs' well-known mark KENT GRAND+, amounting to passing off of their goods as the products of the Plaintiffs;

c) A decree for permanent injunction restraining the Defendants, their distributors, dealers, stockists, retailers, servants, agents and all others acting for and on their behalf from manufacturing, selling, importing, offering for sale, advertising and directly or indirectly dealing in any goods/products which are identical or similar or are an imitation or a substantial reproduction of the Plaintiffs Registered copyright amounting to infringement of the Plaintiffs statutory rights.”

2. Mr. Deepanshu Nagar, learned Counsel for the plaintiff, prays that, in the circumstances, the suit may be decreed in the aforesaid terms and that his client would not be pressing for costs and damages.

3. The plaint in the suit alleges infringement, by the defendant, of Design No.312406 held by the plaintiff in respect of water purifiers, as well as passing off, by the defendant, of their products as the products of the plaintiff.

4. The plaintiff is engaged in the business of manufacture and sale of water purifiers. The plaint alleges that, in July 2022, the plaintiff came across cabinets having a design similar to the plaintiff's water purifiers, in which the plaintiff was proprietor of registered Design no. 312406.

5. The plaint also avers that the plaintiff was aggrieved by the use, by the defendant, of a logo and name similar to that of the plaintiff. For the said purpose, a comparative depiction of the plaintiff's and the defendant's products, and of their respective logos, are provided in

paras 22 and 27 of the plaint thus:

Registered Design of Plaintiff	Plaintiff's Product as per Registered Design	Defendant's Product
Design No:- 312406, Dated: 26.11.2018	[KENT GRAND + (NEW)]	[NEW AQUA GRAND SMART]
		

Plaintiff's logo	Defendant's logo
	

6. Holding that there was a *prima facie* case of infringement and passing off, on the part of the defendant, made out by the plaintiff, this Court, *vide* order dated 29th July 2022, while issuing summons in the suit also granted *ex-parte ad interim* injunction against the defendant from using the impugned design or the impugned logo.

7. Though Mr. Vidhani, learned Counsel for the defendant, submits that his client is not accepting the allegations in the plaint, the defendant does not oppose to the plaint being decreed in terms of prayers (a) to (c) thereof, already reproduced hereinabove, as litigating would be an impracticable exercise.

8. In view thereof, and in view of the statement made by learned Counsel for the plaintiff, the suit stands decreed in terms of prayers (a) to (c) in para 41 of the plaint already reproduced hereinabove.
9. The Registry is directed to draw up a decree-sheet accordingly.
10. The plaintiff shall be entitled to refund of court fees, if any deposited by it.

C. HARI SHANKAR, J.

JANUARY 20, 2023

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