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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 20th November, 2023

+ **C.O.(COMM.IPD-CR) 752/2022**

PERFETTI VAN MELLE S.P.A AND ANR Petitioners

Through: Mr. Sushant Singh, Mr. Sourav
Pattanaik, Ms. Shruti Gupta & Mr.
Piyush Kumar, Advs. (M.
7978900270)

versus

M.G PRODUCTS / M.G FOOD
PRODUCT AND ANR

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. This is a cancellation petition under Section 50 of the Copyright Act, 1957 seeking rectification of the copyright registration bearing no. 'A-79261/2007' ('*impugned registration*') registered in favour of Respondent-M.G. Food Products/Mr. Shankar Lal Dhingra, Mr. Nandlal Dhingra, Mr. Shyamlal Dhingra and Mrs. Kavita Makkar. The impugned registration is in the name of Respondent-M.G. Products/M.G. Food Products. The bibliographical details of the impugned registration is as follows:

<i>Title of the work</i>	<i>MG SUPER MINT LIQUID FILLED GUM (LABEL)</i>
<i>Type of work</i>	Artistic Work
<i>ROC No.</i>	A-79261/2007
<i>Date</i>	21st May, 2007



Applicant Name	M/s. M.G. Products
Author Name	Shri Shankarlal Dhingra

3. The Id. Counsel submits that the Petitioners i.e., Petitioner No. 1-Perfetti Van Melle SpA & Petitioner No. 2-Perfetti Van Melle India Pvt. Ltd. had in fact filed a civil suit bearing **CS(OS) No. 513 of 2009** titled **‘Perfetti Van Melle v. Mr. Shankar Lal Dhingra’** against the Respondent/Defendant No.1-Mr. Shankarlal Dhingra- the author of the impugned registration. Further, the said suit has been decreed vide order dated 26th April, 2013. The relevant portion of the said order reads as under:

“On 9th March, 2011, present matter was referred to the Delhi High Court Mediation and Conciliation Centre. The mediation in the present case was successful through the efforts of Ms. Manjusha Wadhwa, Advocate- Mediator. A Settlement Agreement dated 31st October, 2012 has been executed between the plaintiffs and remaining defendants.

This Court is satisfied that the compromise between the parties contained in the aforesaid Settlement Agreement satisfies the requirements of Order 23 Rule 3 CPC. The compromise contained in the aforesaid Settlement Agreement is lawful and therefore, this Court does not find any impediment in decreeing the suit in terms of the aforesaid Settlement Agreement.

*It is pertinent to mention that the Supreme Court in **Afcons Infrastructure Ltd. Vs. Cherian Varkey Construction Co. (P) Ltd., (2010) 8 SCC 24** while dealing with Section 89 of the CPC observed that the settlement agreement will have to be placed before the Court for recording it and disposing of the suit in its terms and the Court should apply the principle of Order 23 Rule 3 of the CPC and make a decree in terms of the settlement in regard to the subject matter*



of the suit, to make such settlement effective.

Consequently, present suit is decreed in terms of aforesaid Settlement Agreement dated 31st October, 2012 in particular its paras 6 and 7(a) to (e). Registry is directed to prepare a decree sheet in terms thereof. Plaintiff is granted liberty to file an application under Section 16 of Court-Fees Act. With the aforesaid observations, present suit stands disposed of.”

4. As per the above order, the parties had entered into a settlement agreement dated 31st October 2012 under the aegis of the Delhi High Court Mediation and Conciliation Centre. In the said settlement agreement, the Respondent/Defendants had agreed for the cancellation of the impugned registration.

5. A copy of the settlement agreement dated 31st October, 2012 has been handed over to the Court which was entered between the Petitioner and Mr. Shankarlal Dhingra, who is the proprietor / partner of M.G. Products/M.G. Food Products. The relevant clauses of the said settlement agreement read as under:

“7. The following settlement has been arrived at between the parties hereto.

a) That the Defendant will not use the earlier label but would maintain the registration No. 1478550 in class 30 so that the new application for the label can be registered in association with the earlier registration. The Plaintiff will not oppose or object to the new registration applications of the Defendant of the trademark “SUPER MINT” either under Trade Mark Act 1999 or Copyright Act, 1957.

b) That the Defendant agrees to cancellation of the Copyright NO. 79261/07 and seek fresh registration of its label annexed as Annexure A. The Plaintiff will have no objection to the same.

c) That the Defendants agree and undertake that it shall



not, either directly or through its partner, successors, heirs, and agents, apply for registration of any label mark, device packaging, wrapper which is identical or deceptively similar to the labels / wrappers and trade dress of the plaintiff's CENTER FRESH which is annexed as Annexure B.

d) The Defendants will exhaust their existing stocks lying with them till 31.01.2023. This undertaking would be thus valid from 01.02.2023.

e) The Plaintiff gives up all relief including damages, rendition of account etc. as claimed in the present Suit.”

6. In terms of the above settlement agreement, the Respondent agreed to discontinue using their prior label for the label mark ‘SUPER MINT’. Additionally, the Respondent agreed to apply for cancellation of the impugned registration.

7. In view of the fact that the suit itself has been decreed and the settlement agreement is part of the said decree, the present copyright registration no longer deserves to continue on the Register of Copyrights. The impugned registration bearing no. **A-79261/2007** shall stand cancelled, and shall accordingly be expunged from the Register of Copyrights in terms of Section 50 of the Copyright Act, 1957.

8. The necessary change in the Register of Copyrights shall be carried within four weeks and shall be reflected on the website.

9. The Registry is directed to supply a copy of the present order to the office of the Controller General of Patents, Designs & Trademarks of India on the e-mail: llc-ipo@gov.in for compliance of this order.

10. The present petition is disposed of in the above terms.

PRATHIBA M. SINGH, J.

NOVEMBER 20, 2023/Rahul/dn