



2023:DHC:8067



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 860/2022**

**CEDAR PROPERTIES AND
TRADING LLP & ORS.**

..... Plaintiffs

Through: Mr. H.L. Tikku, Sr. Advocate
with Mr. Rahul Regmi, Adv.

versus

BAJAJ FORMULATIONS & ORS.

..... Defendants

Through: Mr. Ramesh Gautam, Adv. for
D-1

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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03.11.2023

I.A. 20973/2023 (Order XXIII Rule 3 of the CPC) in CS (COMM) 860/2022, I.A. 20932/2022 (Order XXXIX Rules 1 and 2 of the CPC) and I.A. 20933/2022 (Order XXVI Rule 9 read with Order XXXIX Rule 7 of the CPC)

1. The dispute between the parties in the present case stands settled and a joint application under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 has been filed. The terms of settlement read thus:

“i) The Defendant No. 1 admit and agree that the Plaintiff No. 1 is the registered proprietor of the trade mark DROTIN in respect of medicinal and pharmaceutical preparations falling in Class 5 and as is subject matter of Trade Mark Registration No. 732349 since 1997.

ii) The Defendant No. 1 also admit and agree that the proprietary rights of Plaintiff No. 1 in the Trade Mark DROTIN,

Signature Not Verified

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CS(COMM) 860/2022

Page 1 of 4



in respect of medicinal and pharmaceutical preparation under the common law on account of priority in adoption and use, through its licensees, and the goodwill and reputation accrued therein, vests in favour of the Plaintiffs.

iii) The Defendant No. 1 undertake to this Hon'ble Court not to commit any act of infringement or passing off in respect of the Trade Mark DROTIN and refrain from using the impugned mark 'DRON' WITH OR WITHOUT ANY SUFFIX OR PREFIX or any other mark which contains essential features of the Plaintiff's registered trademark DROTIN or part thereof or which contains the first syllable thereof or which may be otherwise deceptively similar to DROTIN in respect of medicinal and any pharmaceutical preparations.

iv) The Defendant No. 1 further admits and undertakes to this Hon'ble Court that they shall not use, manufacture, market, distribute or sell, any product under the impugned Trade Mark DRON or any other mark containing the essential features of the Plaintiffs registered trademark DROTIN or any part thereof or which contains the first syllable thereof or which may be otherwise deceptively similar to DROTIN in respect of the goods of their manufacture, marketing, distribution or sale including medicinal and pharmaceuticals preparations hereinafter and also at any subsequent time in future, within India or outside of India.

v) The Defendant No. 1 undertake before this Hon'ble Court that they are not in power and possession of any stocks of the product bearing the impugned mark DRON. The Defendant No. 1 further undertake to destroy the goods, packaging material, if any, bearing the impugned mark DRON.

vi) The defendant no. 1 affirm that they are aware and have been made aware about the consequences of breach of the undertakings given hereunder and the order, judgment and decree which will be passed by this Hon'ble Court and will not commit breach of the undertakings given hereunder or do any act or things which may amounts to breach of the undertakings given herein and order, judgment and decree passed thereon, which will give occasion to the Plaintiffs to file appropriate proceedings to seek enforcement of these undertakings and for execution of the order, judgement and decree which would be passed by this Hon'ble Court at the cost of the defendants.”

2. Parties are represented by learned Counsel who undertake on



behalf of their respective clients to abide by the terms of settlement.

3. The Court has perused the terms of settlement and find them to be lawful and in order and enforceable in law.

4. As such, the dispute in the plaint does not survive for consideration.

5. The suit accordingly stands decreed in terms of prayers (i) and (ii) in the plaint, which read thus:

“i) A decree for permanent injunction restraining the Defendants, their servants, agents, assigns in business, its dealers, stockists etc. from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal and pharmaceutical/medicinal preparations under the impugned Trade Marks "DRON" with or without the Suffix DS or any other mark that may be identical to and/or deceptively similar to the Plaintiffs Trade Mark "DROTIN" as is likely to cause confusion or deception or which is likely to have an association with the registered mark amounting to infringement of the Plaintiffs' registered trade mark No. 732349;

ii) A decree for permanent injunction restraining the Defendants, their servants, agents, assigns in business, its dealers, stockists etc. from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal and pharmaceutical preparations under the impugned trademarks "DRON" with or without the Suffix DS or any other mark that may be identical to and/or deceptively similar with the Plaintiff's registered trade mark DROTIN, as may be likely to cause confusion or deception in the mind of the public in mistaking the Defendant's goods/business as and for those of the Plaintiffs amounting to infringement, passing off & unfair competition/dilution.”

6. Let a decree-sheet be drawn up accordingly.



2023:DHC:8067



7. The plaintiffs are entitled to 50% of the court fee deposited by them.
8. Miscellaneous applications do not survive for consideration and stand disposed of.

C.HARI SHANKAR, J

NOVEMBER 3, 2023

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Click here to check corrigendum, if any