

OCD-16

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE

[COMMERCIAL DIVISION]

IP-COM/6/2024
[Old No. CS-COM/532/2024]
[Old No. CS/157/2023]
IA No.GA/1/2023

AMIR BIRI FACTORY AND ORS.
-VS-
SK FARUK

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : July 29, 2024.

Appearance :
Mr. Avijit Dey, Adv.
Mr. Biswaroop Mukherjee, Adv.
... for the plaintiffs

Mr. Avirup Chatterjee, Adv.
Mr. Rishov Das, Adv.
... for the defendant

The Court: Mr. Avijit Dey, learned advocate, is appearing for the plaintiffs and Mr. Avirup Chatterjee, learned advocate, is appearing for the defendant.

Both parties have entered into a terms of settlement on 25th July, 2024 and have agreed as follows:

- a) "The plaintiffs agree that they shall not have any objection in the event the defendant replaces the words "TARE" and "TAARE" with word "TAAREE" in connection with their registered mark which the defendant shall henceforth be using the said word "JULFIKAR TAAREE A-1 KHAINI".

- b) The defendant shall not henceforth use the mark “JULFIKAR TARE A-1 KHAINI” or “JULFIKAR TAAREE A-1 KHAINI”, and/or adopt/use any mark/label identical with or deceptively similar to the registered and reputed trademark/logo “TARA” or its formatives of the plaintiffs, and shall only use the mark “JULFIKAR TAAREE A-1 KHAINI”. The defendant shall not make any standalone use of the word TARA, TARE AND TAARE per se in any manner whatsoever.
- c) The plaintiffs shall have no objection and shall not object to registration of the mark “JULFIKAR TAAREE A-1 KHAINI”, and the composite label having the burst photograph of the son of the defendant (as depicted in the attached Annexure II), before the Trademark Registry, if applied for by the defendant.
- d) The plaintiffs shall pray for passing decree in the suit being IP COM/6/2024 pending before the Hon’ble High Court at Calcutta, and the defendant shall also withdraw and/or not press the corresponding Appeal being IPDTMA/78/2023 and application being IPD-ATM/2/2024 and IPD-ATM/3/2024 and all legal proceeding pending before the Hon’ble High Court at Calcutta or any other forum of law.
- e) The defendant agrees not to use the mark “JULFIKAR TAAREE A-1 KHAINI”, in connection with goods falling in Classes 30, 31 and 34 (except Khaini), and shall be obliged to use the said mark only in connection with Chewing Tobacco/Khaini. The defendant further agrees not to sell in retail or otherwise any of the goods falling in Classes 30, 31 and 34 (except Khaini) as agreed hereinabove, in any manner whatsoever.
- f) The defendant agrees to exhaust the stock in hand of the goods sold under the impugned or disputed Trademark

“JULFIKAR A-1 TARE KHAINI” and “JULFIKAR A-1 TAAREE KHAINI” within one month from the date of execution of the present Terms of Settlement and shall report the same to the plaintiffs.

- g) If the defendant is found in violation of the present terms and conditions in any manner whatsoever, then the defendant agrees to compensate the plaintiffs for the loss or damages suffered by the plaintiffs on account of the said failure/breach by the defendant. In such a situation, the plaintiffs will also be at liberty to seek appropriate court orders in accordance with law against the defendant.
- h) This settlement shall be binding forever on both the parties, their successors-in-interest, business entities, companies, directors, partners, servants and agents and all those who may hereinafter claim, inherit or derive rights, titles or interests in any manner, in respect of the subject matters covered by the pending Suit between both the parties and the present Application.
- i) The parties to the instant suit agree to abide by the instant terms of the settlement which is arrived between the parties and being filed in the pending suit being I.P. (COM) No. 6 of 2024 before the Hon’ble High Court at Calcutta.
- j) The plaintiffs and defendant do hereby agree and declare that subject to the fulfilment of the aforesaid obligations, the parties do not and shall not raise any claim or demand whatsoever in respect of the subject matter of the suit.
- k) Either party shall not pay for any cost as against each other and shall bear their own legal costs.
- l) On the basis of the above terms the Suit filed by the plaintiffs bearing No. C.S. No. 157 of 2023 (Old) now renumbered as I.P. (COM) No. 6 of 2024 (Amir Biri Factory

& Ors. -Vs.- Sk. Faruk) be decreed and the above terms be treated as part and parcel of the decree.”

Considered the submission made by the counsel for the respective parties. Perused the terms of settlement.

This Court finds that there is no impediment to accept the terms of settlement entered into between the parties. Accordingly, in view of the terms of settlement entered into dated 25th July, 2024, IP-COM/6/2024 [Old No. CS-COM/532/2024] [Old No. CS/157/2023] is disposed of. Decree be drawn accordingly. The terms of settlement be made as part of the decree.

Interim application, if any, also disposed of.

(KRISHNA RAO, J.)