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

+ **CS(COMM) 35/2023 & I.A. 1036/2023, I.A. 8467/2023**

T M 25 HOLDING B V Plaintiff

Through: Mr. Saif Khan, Advocate.

versus

ANMOL KADAM & ORS. Defendants

Through: D-1 in person.
Mr. M. L. Nagpal, partner in D-2.
Mr. Nadeem Khan and Mr. Azhar Ali,
Advocates for D-3.
Mr. Himanshu Bajaj, Mr. Raj Kumar
and Ms. Chanchal Sharma, Advocates
for D-5.
D-6 in person.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **05.02.2024**

1. Plaintiff and Defendant Nos. 1 (Mr. Anmol Kadam trading as M/s Shirting Hub), 2 (Fashion Circle), 5 (M/s Miro Impex) and 6 (Mr. Somveer Singh, Proprietor of M/s Gobleen Jeans) have executed (separate) settlement agreements dated 11th July, 2023 settling their disputes before the Delhi High Court Mediation and Conciliation Centre. Additionally, Plaintiff and Defendant No. 3 (Shaan Garments) executed a settlement agreement dated 10th August, 2023. Mr. Saif Khan, counsel for Plaintiff, confirms the receipt of payments under the aforementioned settlement agreements.



2. Counsel as well as parties present in Court confirm the terms of settlement and pray for the suit to be decreed in terms thereof.
3. The Court has perused the said terms and finds the same to be lawful.
4. Accordingly, the present suit is decreed in favour of the Plaintiff and against the Defendant Nos. 1, 2, 5 and 6, in terms of the Settlement Agreements dated 11th July, 2023 and in favour of Plaintiff and against Defendant No. 3 in terms of settlement agreement dated 10th August, 2023, which shall form part of the decree. Parties shall remain bound by the terms and conditions of the settlement.
5. Decree sheet be drawn up.
6. As regards Defendants No. 4 (M/s Faizan Garments through Babu Bhai) and 7 (Mr. Kundan Lal), there is no written statement despite service. Time period for filing the written statement has expired¹ and accordingly, their right to file the same stands closed. Mr. Khan presses for a summary judgment and award of nominal damages against the aforementioned Defendants under Order XIII-A read with Order VIII Rule 10 of Code of Civil Procedure, 1908 read with Rule 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022. In terms of Local Commissioner's report, recoveries were made from Defendants No. 4 and 7 to the following effect:

Local Commissioner Report in relation to Defendant No. 4:

- “4. In respect of the Commission executed at Premise No. 1 of the Defendant No. 4, I hereby report as under:-
- i I had visited the premises of the Defendant No. 4 namely Mr. Babu Bhai trading as “M/S Faizan Garments” located at E-16/687, E,

¹ Defendant No. 7 was deemed to be served vide Order dated 20th July, 2023 and Defendant No. 4 was issued summons through Order dated 19th January, 2023 and entered appearance through counsel on 28th March, 2023.



- Ganesh Gali No.3 Tank Road, Karol Bagh New Delhi-110005(Premise No. 1) on 25.01.2023 at around 1:18 PM. My On The Spot Report of the proceeding conducted at the Premises No.1 is handwritten and is annexed herein with and marked as ANNEXURE -B.
- ii Upon reaching the premises No. 1, I had served a physical copy of the order dated 19.01.2023 along with the Copy of the Complaint with all the annexures to the Son of the Defendants No. 4 firm namely Faizan Beg, who was present at the said premises along with their other associates and workers. He informed us that his father who is owner of this firm is also arriving to the said premises. Aadhar Card of the son and father who is owner namely Faizan Beg and Babu Bhai is annexed herewith and marked as ANNEXURE-C.
 - iii. We searched the Premise No.1 and found several products such as 24 pieces of Jeans Pants with different sizes, 100 pieces of labels(small) of Jeans, 25 pieces of Long Tags (G-STAR RAW), 6 pieces of Side Pockets Tags (G-STAR RAW), 100 pieces of Racksen Labels. A handwritten List of Inventory was prepared and same is annexed as ANNEXURE-D.
 - iv. The counterfeit products/articles seized during the commission were packed and sealed in one white plastic bags and they were handed over and released to Mr. Babu Bhai on superdari against an undertaking given by him, Undertaking/ Superdarnama executed by Defendant No. 4 Mr. Babu Bhai is annexed herewith and marked as ANNEXURE-E. Photograph of the inspected Premise No. 1, counterfeit product, sealed goods etc. annexed herewith and marked ANNEXURE-F.”

Local Commissioner Report in relation to Defendant No. 7:

- “5. In respect of the Commission executed at the Premise No. 2 of John-Deo/unnamed Defendant. I hereby report as under:-
- i. I had visited the premises/shop of unnamed Defendants/John Deo namely Mr. Kundan Lal, Shop No.8-IN H-16/83/84-G-NO.4 Tank Road Govind Garh Delhi-110005 R/o 52/52A Gali No. 17 Naya Delhi, Karol Bagh, Central Delhi-110005(herein after referred to as Premises No. 2) on 25.01.2023 at around 3:00PM. My on the spot report of proceeding conducted at Premises No. 2 is handwritten and is annexed herewith as ANNEXURE-G.
 - ii. Upon reaching the premises No. 2, I had served the physical copy of the order dated 19.01.2023 upon the owner of the said shop/premises namely Mr. Kundan Lal who was present at the premises. Copy of the Aadhar Card and Electricity Bill of John-



Deo/unnamed Defendant namely Mr. Kundan Lal as obtained from him is annexed herewith and marked as ANNEXURE-H.

iii. We searched the Premises No. 2 and found 24 Pieces of G-STAR Jeans. A handwritten List of inventory was prepared and the same is annexed herewith as ANNEXURE-I.

iv. The counterfeit products/articles seized during the commission were packed and sealed in one Blue plastics bags and they were handed over and released to Mr. Kundan Lal on Superdari against an undertaking given by him, undertaking/ superdarinama executed by John-Deo/ unnamed Defendant No. 4 Mr. Kundan Lal is annexed herewith and marked as ANNEXURE-J. Photograph of the inspected Premises No. 2, counterfeit product, sealed goods etc. annexed herewith and marked ANNEXURE-K.”

7. In view of the above and considering the terms of settlement effected with others and the recoveries made from Defendant Nos. 4 and 7, the suit is decreed in favour of Plaintiff also against Defendant Nos. 4 and 7 for the relief of permanent injunction in terms of Paragraph 55(i)-(iv) of the Plaint. Defendant No. 4 is also directed to pay an amount of INR 1,50,000/- and Defendant No. 7 is directed to pay an amount of INR 50,000/- towards damages to the Plaintiff in respect of prayer made in Paragraph 55(vi) of the Plaint.

8. As regards prayer stated in Paragraph No. 55(ix) (order for cost of proceedings), Plaintiff is entitled to actual costs, in terms of the Commercial Courts Act, 2015 and Delhi High Court (Original Side) Rules, 2018 read with IPD Rules, recoverable from Defendant Nos. 4 and 7, jointly and severally. Plaintiff shall file its bill of costs in terms of Rule 5 of Chapter XXIII of the Delhi High Court (Original Side) Rules, 2018 within four weeks from today. As and when the same is filed, the matter will be listed before the Taxing Officer for computation of costs.

9. Decree sheet be drawn up.

10. File be consigned to record room.



11. Disposed of, along with pending applications.

SANJEEV NARULA, J

FEBRUARY 5, 2024
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