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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 67/2023**
CROMPTON GREAVES CONSUMER ELECTRICALS LIMITED

..... Plaintiff

Through: Ms. Saumya Bajpai, Adv.

versus

SYMPHONY LIMITED

..... Defendant

Through: Mr. Sitesh Narayan Singh &
Mr. Harshit S. Tolia, Advs. (thru VC)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
12.01.2024

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I.A. No.879/2024 (Under Order XXIII Rule 3, CPC)

1. This joint application under Order XXIII Rule 3, Code of Civil Procedure, 1908 has been moved on behalf of the parties for recording the terms of settlement arrived at between them. The plaintiff had initiated the present suit *inter alia* seeking permanent injunction against the defendant and their affiliates from manufacturing, marketing, and selling air coolers using the design identical or deceptively similar to the plaintiff's 'Marvel Neo' model registered under numbers 326486-001 and 326487-001 as per the Designs Act, 2000 or any other air coolers which were a colourable imitation or substantial reproduction of the plaintiff's get-up, shape and configuration, surface pattern, design, and packaging. Other attendant reliefs were also sought.

2. Pursuant to notice issued by the Court, the parties have attempted to



amicably resolve their issues. They have arrived at a settlement, terms of which are captured in para 4 of the said application and are extracted as under:

“a) The Defendant shall not challenge the validity of the registered designs of the Plaintiff under numbers 326486-001 and 326487-001 both dated January 27, 2020, under Section 19 or 22(3) of the Designs Act, 2000, which are for the Air Cooler Model Marvel Neo 40 Litres and Marvel Neo 23, being used by the Plaintiff.

b) The Defendant has voluntarily agreed to discontinue the use of design of an air cooler that is alleged in the plaint to be identical/similar to the registered design in the name of the Plaintiff under the Designs Act, 2000, under numbers 326486-001 and 326487-001 both dated January 27, 2020 which are for the Air Cooler Model Marvel Neo 40 Litres and Marvel Neo 23.

c) Defendant agrees that at present there is existing stock of 68 air coolers containing the design of an air cooler that is alleged to be identical/similar design as that of the registered design in the name of the Plaintiff under the Designs Act, 2000, under numbers 326486-00 1 and 326487-00 1 both dated January 27, 2020. After the clearance of these 68 air coolers, the Defendant shall not sell any such air cooler. The Defendant has already stopped purchasing the disputed air cooler from its manufacturer, Canberra Industries Pvt. Ltd., even prior to filing of the suit by the Plaintiff.

d) The Plaintiff also agrees not to press for any relief against the Defendant including for the damages, rendition of account, cost or such other reliefs except as agreed upon by the parties in these



terms of the settlement.

e) The Defendant has no objection in case the Plaintiff is allowed for refund of full court fees from the Hon'ble Court.”

3. The Court has perused the aforesaid terms of settlement and finds the same lawful. Needless to state that the parties shall be bound by these terms of settlement.
4. In view of the foregoing, the present application is allowed.
5. Decree sheet be drawn in terms of settlement as noted above.
6. Accordingly, the suit stands disposed of.
7. Pending applications, if any, are rendered infructuous.
8. The petitioner is entitled to refund of Court fee in terms of applicable provisions of the Court Fees Act, 1870 in view of the settlement.
9. Date of 13th February, 2024 fixed earlier stands cancelled.
10. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 12, 2024/sm/sc