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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 202/2024 & I.As. 5411-5416/2024**
APOLLO PIPES LIMITED Plaintiff
Through: Mr. Tushar A. John, Advocate.

versus

APPOLEX POLYTECH & ORS. Defendants
Through: Mr. Kunal Khanna and Ms. Kirtan
Patel, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
21.03.2024

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1. Let the plaint be registered as a suit.
2. Issue summons. Mr. Kunal Khanna, counsel for the Defendants, accepts notice.
3. The Plaintiff is the registered proprietor of the trademarks 'APOLLO' and 'APL APOLLO', apart from other APOLLO based formative marks [***"APOLLO Trademarks"***]¹. The Plaintiff uses their APOLLO Trademarks in the course of their business as a manufacturer and supplier of plastic piping, plumbing, water storage and sanitary ware systems and products. Aggrieved by the Defendants' adoption and use of the trademark

APPOLEX

'APPOLEX'/ '***"Impugned Mark"***', which is contended

¹ Details of Plaintiff's trademark registrations and applications in respect of the APOLLO Trademarks are set out in Paragraph No. 11 of the plaint.



to be an identical/ deceptively similar mark, the Plaintiff has filed the present suit alleging infringement and passing off of their APOLLO Trademarks.

4. At the outset, Mr. Kunal Khanna, counsel representing the Defendants, on instructions, states that:

(a) Defendants have decided to give up their use of the Impugned Mark in relation to their packing business;

(b) Defendants shall not, at any time in the future, adopt any trademark which is identical or deceptively similar to the Plaintiff's registered APOLLO Trademarks;

(c) Defendants shall withdraw their pending trademark applications in respect of the Impugned Mark.

5. In light of the aforementioned undertaking, Mr. Khanna prays that the suit be disposed of without imposition of any damages or cost. Additionally, he requests for permission to deplete the existing stock of manufactured impugned products under the Impugned Mark within a period of three months from today.

6. Mr. Tushar A. John, counsel for the Plaintiff, states on instructions that, in terms of the above statement of Mr. Khanna, Plaintiff presses only for a decree for injunction and is agreeable to waive their remaining claims for damages, costs, delivery-up and rendition of accounts. However, he submits that the Defendants must disclose on an affidavit the inventory of existing stock available with them, including date of manufacture, batch number, etc.

7. In view of the above, the following directions are issued:

7.1. In light of the statement made by Mr. Khanna, the suit is decreed in



favour of the Plaintiff and against the Defendants in terms of Prayer Clauses No. (a) and (b).

7.2. The Defendants shall remain bound by the statement made by their counsel as recorded above, and shall file an affidavit to that effect within a period of one week from today.

7.3. Defendants are permitted to deplete their stock which has already been manufactured under the Impugned Mark 'APPOLEX'/



' , within a period of three months from today. Mr. Khanna has stated that the existing stock comprises of approximately 1700 pipes. Nonetheless, Defendants are directed to file an affidavit within a period of one week from today giving complete particulars of the goods manufactured as on date under the Impugned Mark.

7.4. As requested by the counsel for Plaintiff, since there is an element of amicable settlement between the parties, the Registry is directed to issue a certificate of refund of full court fees to the Plaintiff.

8. The suit is decreed in the above terms. Decree sheet be drawn up.

9. The present suit, along with pending applications, is disposed of.

SANJEEV NARULA, J

MARCH 21, 2024

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