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

+ **CS(COMM) 212/2023 & I.A. 38368/2024**

AKZO NOBEL COATINGS INTERNATIONAL B VPlaintiff

Through: Mr. Prashant Gupta and Jithin M.
George, Advocates
Mob: 8447349731

versus

JK CEMENT LTD.Defendant

Through: Mr. Swapnil Gaur, Adv.
M: 9897905254
E-mail- swapnilgaur@ralegal.co.in

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
04.09.2024

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I.A. 38368/2024 (Joint application under Order XXIII Rule 3 read with Section 151 CPC 1908 for recording settlement between the parties)

1. The present is a joint application under Order XXIII Rule 3 read with Section 151 of Code of Civil Procedure (“CPC”), 1908, for recording the settlement between the parties.
2. The plaintiff had filed the present suit against the defendant, *inter alia* that the defendant be restrained by an order of permanent injunction from using the trademark WEATHER SHIELD or any other mark deceptively similar thereto in relation to its products or business, since the use of the said trademark amounts to infringement and passing off of the plaintiff’s trademark WEATHERSHIELD.
3. It is submitted that during the pendency of the suit the plaintiff and



the defendant have agreed to amicably settle the matter, terms of which, are contained in paragraph 3 of the present application.

4. Counsel for the parties have appeared today and have confirmed the terms of the settlement. They further pray that the suit be decreed in terms thereof, except that the matter be kept for compliance, in view of the terms of the settlement.

5. The court has perused the terms of the settlement and finds the same to be lawful.

6. By way of the settlement, the defendant has recognized and acknowledged the plaintiff's exclusive proprietary rights in the trademark WEATHERSHIELD. The defendant has agreed and undertaken that it will not use the trademark WEATHER SHIELD and any other trademark deceptively similar to the mark WEATHERSHIELD in relation to its products or its business, in any manner whatsoever, including, but not limited to using the same as the trademark, trade name, corporate name, domain name, E-mail address, social media handle, etc., at any time in future.

7. The defendant further has confirmed that it has filed request along with a letter of withdrawal, before the Trademark Office seeking withdrawal of the various trademark applications filed by it.

8. Similarly the defendant has also confirmed that it has filed a request along with letter of withdrawal before the trademark office seeking withdrawal of the various rectification petitions filed by it against the plaintiff's registered trademark.

9. This Court notes that as per the settlement, the defendant has agreed and undertaken that it shall file on or before 23rd September, 2024, an



affidavit before this Court, with respect to the various issues, as detailed therein.

10. Accordingly, the present suit is decreed in favour of the plaintiff and against the defendants in terms of the Settlement Agreement as contained in paragraph 3 of the present application, which shall form part of the decree. Parties shall remain bound by the terms and conditions of the settlement.

11. The Trademark Registry is directed to expeditiously process the withdrawal applications of the defendant, pertaining to the following:

- i. Application no. 4291741 in Class 19
- ii. Application no. 4291742 in Class 19
- iii. Application no. 5924080 in Class 19
- iv. Application no. 5924079 in Class 19
- v. Rectification Petition No. 268380
- vi. Rectification Petition No. 268403

12. In view of the fact that the parties have arrived at a compromise, Registry is directed to issue a certificate for refund of full Court Fees in favour of the plaintiff through its counsel, i.e., K&S Partners.

13. Decree sheet be drawn up.

14. Suit along with the pending applications, stand disposed of.

15. List for compliance on the date already fixed, i.e., 07th October, 2024.

16. The Registry is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in for compliance.

MINI PUSHKARNA, J

SEPTEMBER 4, 2024/kr