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

\+ CS(COMM) 336/2024, I.A. 9186-9189/2024

ALKEM LABORATORIES LTD ..... Plaintiff

Through: Mr. Sagar Chandra & Mr. Nikhil Sankar, Advocate.

versus

WINGS NOVITAS HEALTHCARE LLP & ORS. ..... Defendants

Through: Mr. Anish Chawla, Advocate for D-1 to 3.
Mr. Akhil G. Krishnan, Advocate for D-4 & 5.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **03.05.2024**

1. The present suit is filed in respect of the Plaintiff's registered trademarks "OMEE"/ "OMEE", seeking, *inter alia,* permanent injunction against the Defendants, who are alleged to be manufacturing and marketing products under the impugned marks "OME-ME"/ "OMEME".

2. On the first hearing itself, Mr. Vivek Sood, Senior Counsel appearing for Defendants No. 1 to 3, stated that the suit may be resolved amicably and gave certain undertakings on their behalf, which have been recorded in the order dated 26th April, 2024. In light of the above, the Defendants have also filed their respective affidavits.

3. In their affidavit, Defendant No. 1 has confirmed that they have

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discontinued use of the impugned marks "OME-ME"/ "OMEME" as well as the impugned trade dress/ packaging "

", and have undertaken to adopt a new packaging/ mark which is not deceptively similar to the Plaintiff's mark "OMEE" and Plaintiff's trade dress. They further state that they have not manufactured any such infringing goods since March 2024[1], and undertake to destroy the goods which are already manufactured and packaged but have not yet released in the market. Additionally, Defendant No. 1 has also undertaken to withdraw their trademark applications No. 6226030 and 5919284.

4. Defendants No. 2 and 3, by way of a separate affidavit, have stated that they are not involved in the manufacturing or marketing of goods under the impugned marks "OME-ME"/ "OMEME". Counsel for Defendants No. 2 and 3, on instructions, further clarifies that they have no intention of engaging in such manufacturing or dealing with goods under the aforenoted marks at any time in the future. The suit can therefore be decreed against them based on their undertaking to this effect.

5. Defendant No. 5, in their affidavit, states that Defendant No. 4 has amalgamated with Defendant No. 5. Furthermore, they have declared that they have no association, control, or relationship with Defendants No. 1, 2, and 3, nor are they claiming any rights or interest, directly or indirectly, in the impugned products involved in the present suit. Mr. Chandra states that he is satisfied with the same, and clarifies that no specific direction is being

[1] At Paragraph No. 5 of their affidavit, Defendant No. 1 states that 1485 boxes of 400 capsules each were manufactured in the last Batch No. OELC 2019 in March, 2024.

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sought against Defendants No. 4 and 5. Accordingly, the affidavit of Defendant No. 5 is accepted and shall bind the Defendants No. 4 and 5.

6. In view of the above, the suit is decreed in favour of the Plaintiff by binding Defendants No. 1, 2 & 3 to their undertakings, as delineated in their respective affidavits, and in terms of the statement made by the counsel, as recorded above. Additionally, the suit is decreed in favour of the Plaintiff and against Defendant No. 1 in terms of prayers contained at Paragraph No. 43 (a) to (e) of the plaint. None of the remaining reliefs are pressed.

7. Decree sheet be drawn up.

8. In view of the fact that the matter has been resolved amicably, Registry is directed to issue a certificate of refund of full Court fees in favour of the Plaintiff.

9. With the above directions, the suit, along with pending applications, is disposed of.

SANJEEV NARULA, J

MAY 3, 2024
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