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

+ **CS(COMM) 455/2022 & I.A. 10253/2022**

NIKE INNOVATE C V Plaintiff

Through: Mr. Mankaran Singh, Advocate.

versus

ARUN KUMAR Defendant

Through: Mr. Deep Dhamija, Advocate with
Mr. Arun Kumar, Defendant in
person.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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05.03.2024

I.A. 5369/2024 (joint application by Plaintiff and the Defendant under Order 23 Rule (3) read with Section 151 of Code of Civil Procedure, 1908)

1. Parties jointly pray for a compromise decree under Order XXIII Rule 3 r/w Section 151 of the Code of Civil Procedure, 1908, on terms enumerated in paragraph No. 3 of the application.
2. The application is duly supported by affidavits of the Constituted Attorney of the Plaintiff and the Defendant. The counsel for the parties mentioned in the appearance above, confirm the compromise, and pray that the suit be decreed in terms thereof.
3. The Court has perused the terms of the compromise and finds the same to be lawful. As the Defendant has agreed to suffer a decree of permanent and mandatory injunction as per paragraph No. 39(i)(a) to (d) of



the plaint, the Plaintiff has agreed not to press for reliefs sought against Defendant in paragraph No. 39 (iii), (iv), (v), and (vii) of the plaint.

4. It is noted that in paragraph No. 3(xii) of the present application, in addition to ceasing operations under the impugned mark(s), to settle all disputes, the Defendant has also agreed to amend/ alter his mark



“ORBIT” registered under No. 3257933 in class 25 to



“, which does not form part of the subject matter of the present suit. To this effect, an application for amendment bearing Temp No. 101126699, has also been filed on 12th February, 2024 before the Trademarks Registry.

5. The proposed amendment only seeks to remove the device of a checkmark/ tick to avoid infringement of Plaintiff's registered swoosh logo. In the opinion of the Court, the said alteration does not, in any manner, substantially affect the identity of the Defendant's "ORBIT" mark. Therefore, the Registrar of Trademarks is directed to proceed under Section 59 of the Trademarks Act, 1999 and issue an appropriate order permitting the amendment of the Defendant's registered mark, in accordance with law.

6. The present suit is decreed in favour of Plaintiff and against the Defendant, in terms of paragraph No. 39(i)(a) to (d) and 39(ii) of the plaint read with compromise recorded in paragraph No. 3 of the application, which shall form part of the decree.

7. The parties shall remain bound by the terms and conditions of the



compromise as recorded in the application.

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

9. As requested by the counsel for Plaintiff, a certificate of refund of court fee be issued in favour of the Plaintiff's counsel, subject to the Plaintiff furnishing an affidavit clearly authorising their counsel to receive the court fee on their behalf. The same shall be filed within a period of two weeks from today, with a copy to the Defendant's counsel.

SANJEEV NARULA, J

MARCH 5, 2024

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