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

+ **CS(COMM) 382/2024 & I.A. 10684/2024, I.A. 36527/2024**

MOTHER DAIRY FRUIT AND VEGETABLE PRIVATE LIMITED
.....Plaintiff

Through: Mr. Saif Khan, Mr. Shobhit Agrawal,
Ms. Meghana Kudligi, Advocates
(M:9704540820)

versus

MOOSPRING DAIRY FARM PRIVATE LIMITED & ANR.

.....Defendants

Through: Mr. Tanmay Yadav, Advocate along
with Mr. Ankit Singh, AR of
defendants (M:9971526082)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
23.10.2024

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1. The present suit has been filed seeking permanent injunction restraining the defendants from using the device mark or trade mark which



is identical to the plaintiff's mark 'Super-T/
vide trademark registration no. 3951021.

2. This Court had granted *ex-parte ad interim* injunction in favour of the plaintiff and against the defendants vide order dated 10th May, 2024, thereby restraining the defendants from using the similar mark, which would infringe the plaintiff's registered mark.

3. In the written statement filed on behalf of defendant nos. 1 and 2, it is



clearly stated that upon being aware of the Cease and Desist Notice dated 06th February, 2024, the defendant no.1 has forthwith ceased to use the impugned mark on the packaging of its products and the defendant no.2 has also removed the use of the mark on its website. However, the plaintiff had placed documents on record to show that despite the interim order passed by this Court, the defendants had continued using the infringing mark. Thus, a contempt application was filed by the plaintiff, pursuant to which an affidavit has been filed on behalf of the defendants, giving explanation that in view of certain medical exigency in the family of the defendants, requisite steps could not be taken for the purposes of change in the trade name.

4. It is submitted that the delay in changing the packaging of the defendants was only owing to the family exigency and that the defendants had no intention to violate the orders passed by this Court.

5. An unconditional apology has been tendered before this Court.

6. Learned counsel for the defendants further submits that the defendants have already stopped the use of the infringing mark and shall not use the infringing mark or any other mark which is similar or deceptively similar to the mark of the plaintiff. The defendants are held bound by the said undertaking.

7. Learned counsel appearing for the plaintiff expresses satisfaction over the undertaking given by the defendants. However, he submits that in the facts and circumstances of the case, costs be granted in favour of the plaintiff.

8. Considering the overall facts and circumstances of the present case, and in view of the undertaking given by the defendants, the present suit is decreed in favour of the plaintiff and against the defendants, in terms of Para



45 (i) to (iv) of the prayer clause in the plaint.

9. Further, the plaintiff is entitled to costs of ₹ 1,00,000/-, which shall be paid by the defendants to the plaintiff, within a period of four weeks from today.

10. Let decree sheet be drawn up.

11. The present suit, along with pending applications, stands disposed of.

12. The next date of hearing stands cancelled.

MINI PUSHKARNA, J

OCTOBER 23, 2024

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