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

+ **CS(COMM) 270/2018 & O.A. 52/2016**
AMBA MOTORCYLES THR. SH. SANJEEV KAPOOR

..... Plaintiff

Through: Mr. Sushant Singh, Mr. Akshat Gupta, Mr. Sourav Pattanaik, Ms. Shruti Gupta and Mr. Piyush Kumar, Advocates.

versus

MAHAVIR PRASAD

..... Defendant

Through: Mr. R.K. Aggarwal, Ms. Ayushi Bansal and Mr. Vinay Padam, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
23.01.2024

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I.A. 1740/2024 (u/Order XXII Rule 10 r/w Order I Rule 10 r/w Section 151 of the Code of Civil Procedure, 1908)

1. The present suit concerns the trademark “TOP”, and the present application has been filed to implead the proposed Plaintiff in place of the existing Plaintiffs.
2. On an earlier occasion, pursuant to assignment of the said trademark from Plaintiff No. 1 to Amba Bi-Wheelers Private Limited (“ABPL”), and subsequent assignment from ABPL to Plaintiff No. 2 (M/s Motoplast Components), the Plaintiff had filed an application under Order XXII Rule 10 of the Code of Civil Procedure, 1908 (“CPC”), seeking impleadment of Plaintiff No. 2. Subsequently the trademark “TOP” has been acquired by



Top MotoComponents Private Limited (the Applicant and proposed Plaintiff), pursuant to taking over the business, assets and liabilities of Plaintiff No. 2. The copies of articles of association of the Applicant are enclosed with this application.

3. Therefore, the Applicant has filed the present application, *inter alia* seeking replacement of Plaintiff No. 2 with the Applicant in the present suit, as Plaintiff No. 2 has ceased to exist and Applicant is now the successor-in-interest, having succeeded to all the assets and liabilities including the trademark “TOP”. Further to this application, a prayer is also made for deleting Plaintiff No. 1 from the array of parties. Mr. Sushant Singh, counsel for Plaintiffs, submits that Plaintiff No. 1 is not interested to continue with the present suit as the subject mark had earlier been assigned by Plaintiff No. 1 to ABPL.

4. The application is not objected to by the Defendant.

5. The Court has considered the submissions advanced, the application and supporting documents such as the articles of association of the Applicant and the board resolution in favour of the deponents.

6. In view of the foregoing, the application is allowed, Plaintiff No. 1 is deleted from array of parties, and Top MotoComponents Private Limited is impleaded as Plaintiff in place of M/s Motoplast Components.

7. The amended memo of parties annexed with the application is taken on record.

8. The application is disposed of.

I.A. 1717/2024 (u/Order XXIII Rule 3 r/w Section 151 of the Code of Civil Procedure, 1908)



9. This is a joint application on behalf of the freshly impleaded Plaintiff (Top MotoComponents Private Limited)¹ and the Defendant for disposing of the suit. Parties seek a consent decree on the terms of the settlement mentioned in the application.

10. The terms of the settlement between the parties have been delineated in Paragraph 2 of the application. The Court has perused the same and finds the same to be lawful.

11. The application is signed by the parties whose signatures are identified by the counsel and who have joined the proceedings. The application is duly supported by the affidavits of the parties. Counsel confirm the terms of the settlement.

12. The suit is decreed in favour of the Plaintiff and against the Defendant as per the terms of the settlement delineated in Paragraph 2 of the application and shall form part of the decree. Parties shall remain bound by the terms and conditions of the settlement.

13. Decree sheet be drawn up.

SANJEEV NARULA, J

JANUARY 23, 2024

as

¹ As per Amended Memo of Parties dated 18th January, 2024.