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

+ **CS(COMM) 663/2021, I.A. 16848/2021, I.A. 16954/2022**

I.A. 10591/2024.

CHOICE HOTELS INTERNATIONAL, INC. Plaintiff

Through: **Ms. Abhilasha Nautiyal and Mr. Mukul,
Advocates.**

versus

ORAVEL STAYS LIMITED & ORS. Defendant

Through: **Mr. Chaitanya Kaushik, Advocate with
Mr. Junaid Aamir and Ms. Payal Nayak,
Advocates**

**CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL**

**% ORDER
09.05.2024**

I.A. 10591/2024 (Application under Order XXIII Rule 3 of CPC)

1. A joint application has been filed under Order XXIII Rule 3 of Code of Civil Procedure, 1908 (“CPC”) by the parties placing on record terms of settlement executed between the plaintiff and defendant no.1. The said application is signed by authorised signatories of the parties, as also supported by affidavits.

2. The terms of settlement as executed between plaintiff and defendant no.1 are as under:



- a. The plaintiff is the proprietor of the registered trademarks COMFORT INN, COMFORT HOTEL, COMFORT (device and label mark), and COMFORT SUITES ("Choice Hotel's/

plaintiff's COMFORT Formative Trademarks") and its trademarks mentioned below:

Mark	Application No.	Class
	3821879	43
	3821880	43
	3821881	43
	3821882	43
	3821884	43
	3821883	43
	3821885	43
	3821886	43
	2899727	43



Mark	Application No.	Class
	3821887	43
	502842	16
	1238101	42
	1361095	43
COMFORT HOTEL	1700556	43
COMFORT INN	454036	16
COMFORT INN	1553777	43
COMFORT INN & SUITES	1462363	42
	1462362	42
	1361094	42
COMFORT SUITES	1462361	42
	1238091	42

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 14/05/2024 at 19:59:17



Mark	Application No.	Class
QUALITY HOTEL	2062636	43
QUALITY INN	1506342	43
QUALITY SUITES	476757B	16
SLEEP INN	1321586	42

The above trade marks have been hereinafter collectively referred to as the "Plaintiff's Trademarks".

- b. Defendant no. 1 undertakes to remove (unless suitably modified by the hotel/ operator i.e., by completely removing the Plaintiff's Trademarks or the mark which is deceptively similar to Plaintiff's Trademarks under the Trade Marks Act, 1999) within 4 business days from the receipt of notice/ communication from the plaintiff/ plaintiff's counsel at the email addresses provided in paragraph 2(k) below or by post at its registered office, whichever is earlier, the listings of hotels from its portals, mobile applications, or websites including but not limited to www.oyorooms.com or the OYO mobile applications and other online use of the Plaintiff's Trademarks by defendant no. 1, including photographs of use of disputed marks and names on its websites, applications and portals.
- c. Defendant no. 1 undertakes to intimate other portals carrying listings of such infringing hotels within four (4) working days from the removal of the listing/ modification in the portal/



website of defendant no. 1. Defendant no. 1 shall communicate to such parties in writing that such third-party portals remove/ modify the listing of the infringing hotels within 4 days of removing/modification from the website/ portal of defendant no. 1.

- d. Defendant no. 1 further undertakes to remove (unless suitably modified by the hotel/ operator i.e., by completely removing the Plaintiff's Trademarks or the mark which is deceptively similar to Plaintiff's Trademarks under the Trade Marks Act, 1999) within 10 business days from the receipt of notice/ communication from the plaintiff/ plaintiff's counsel at the email addresses provided in paragraph 2(k) below or by post at its registered office, whichever is earlier, physical uses of the disputed mark and name in any manner including but not limited to on its stationery, marketing materials, anywhere in India.
- e. Defendant no. 1 undertakes to remove any physical signage containing the Plaintiff's Trademarks which are displayed alongside defendant no. 1's marks within 10 days from the receipt of notice/ communication from the plaintiff/ plaintiff's counsel at the email addresses provided in paragraph 2(k) below or by post at its registered office, whichever is earlier ("Signage Take Down Period"). In case defendant no. 1 fails to take down physical signage containing the Plaintiff's Trademarks which are displayed alongside defendant no. 1's marks within the Signage Take Down Period due to



circumstances beyond its control, including but not limited to its relevant partner hotel's hostile conduct, defendant no. 1 shall promptly inform the plaintiff at the email addresses office@ira.law and abhilasha@ira.law of such non-compliance. Such circumstances can include instances where disputed marks have been displayed elsewhere by its relevant partner hotel(s) erstwhile without defendant no. 1's knowledge, or where disputed marks are reinstalled without knowledge of defendant no. 1, or at premises where defendant no. 1 is not allowed access. The plaintiff shall be at liberty to take suitable legal action against such hotel owner(s) for physical signage containing disputed marks.

- f. Defendant no. 1 further undertakes and agrees to not promote, advertise, partner with, manage, operate any hotels which use the Plaintiff's Trademarks or any mark deceptively similar thereto as stated under the Trade Marks Act, 1999. The Parties agree that marks such as COMFORTS INN, COMFY INN, COMFORTS HOTEL, and COMFORT ENN are deceptively similar to the Plaintiff's Trademarks.
- g. Defendant no. 1 hereby agrees and undertakes to this Hon'ble Court to:
 - i. remove listings (unless modified by the hotel owner/operator) on its present and future portals, mobile applications, and websites including but not



limited to www.oyorooms.com or the OYO mobile applications, and

- ii. not promote, partner with, advertise (including through any physical hoardings), manage, operate, or enter into agreements with entities and/or persons.

which use the Plaintiff's Trademarks or any mark deceptively similar thereto as stated under the Trade Marks Act, 1999, in any manner, including but not limited to, on its signages, stationery, websites and domain names. However, defendant no. 1 reserves its right to relist the property in a manner to exclude completely the use of Plaintiff's Trademarks or any mark deceptively similar thereto as stated under the Trade Marks Act, 1999.

- h. Defendant no. 1 further undertakes before this Hon'ble Court to not partner with and/or enter into agreements with hotels in the future with existing franchisees of the plaintiff who continue to use Plaintiff's Trademarks.
- i. Subject to the foregoing, in the event of any instance of unauthorized use of the Plaintiff's Trademarks or a deceptively similar trademark as stated under the Trade Marks Act, 1999 being brought to defendant no. 1's attention by the plaintiff/ plaintiff's counsel at the email addresses provided in paragraph 2(k) below or by post at its registered office, defendant no. 1 undertakes to act forthwith and without demur as stated in this Settlement Agreement. Defendant no. 1



undertakes that it has removed all listings of properties mentioned in Document 1 of this application.

- j. Notwithstanding the foregoing, the plaintiff shall have the right to seek appropriate remedies under the law for any future violation of the plaintiff's rights in its trademarks subject to the terms of the present Settlement Agreement in so far as defendant no. 1 is concerned.
- k. The plaintiff may intimate defendant no. 1 about infringing hotels at the dedicated email addresses i.e. legal@ovorooms.com with a copy to legalteam@ovorooms.com. Defendant no. 1 shall ensure that the dedicated email addresses are always active and capable of receiving emails.
- l. Defendant no. 1 agrees and undertakes to this Hon'ble Court to not use the Plaintiff's Trademarks or any mark deceptively similar thereto as stated under the Trade Marks Act, 1999, in any manner.
- m. In consideration for the undertakings and representations contained above, the plaintiff agrees not to seek damages of the proceedings against defendant no. 1.
- n. Parties (i.e. the plaintiff and defendant no. 1) agree and undertake that the rights and obligations under this application shall be binding upon their assignees and, successors, holding and subsidiary companies as defined in the Companies Act, 2013.
- o. The plaintiff shall be entitled to seek damages and costs against defendant no. 1 if the undertakings contained above are breached by the said defendant.

3. The Court has perused the terms of settlement and found them lawful and acceptable.



4. It is noted that a summary judgment was passed with respect to Defendants 2 to 4 on 11th May, 2023.
5. Parties will undertake to be bound by terms of settlement.
6. Let decree sheet be drawn up in the above terms.
7. Pending applications are rendered infructuous.
8. In view of the mediation between the parties, plaintiff shall be entitled to full refund of the Court fees through counsel for plaintiff.
9. Registry is directed accordingly.
10. The suit is disposed of accordingly.
11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 9, 2024/RK/ig

Click here to check corrigendum, if any