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

+ C.O. (COMM.IPD-TM) 250/2022
SOMANY CERAMICS LTD. 2, RED CROSS PLACE, KOLKATA,
WEST BENGALPetitioner

Through: Mr. Ashutosh Kumar and Ms. Vrinda
Bagaria, Advs.

versus

SSGANESH ELECTRIC COMPANY, C -5/73, SECTOR-6,
ROHINI, DELHIRespondent

Through: Mr. Manish Birla, Adv.
M: 9810333571
Email: manish@anandandanand.com

+ CS(COMM) 678/2021 & I.A. 3377/2022, I.A. 41334/2024
SOMANY CERAMICS LIMITEDPlaintiff

Through: Mr. Ashutosh Kumar and Ms. Vrinda
Bagaria, Advs.

versus

SHRI GANESH ELECTRIC CO. & ORS.Defendants

Through: Mr. Manish Birla, Adv. for D-1 to 7
M: 9810333571
Email: manish@anandandanand.com
Mr. Ranjeet Singh Sidhu, Ms. Shilpa
Gupta and Mr. Kuber Mahajan, Advs.
for D-8.
M: 9958393111

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
04.10.2024

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**I.A. 41334/2024 (Application under Order XXIII Rule 3 read with
Section 151 of the Code of Civil Procedure, 1908 ("CPC"))**

1. The present is a joint application under Order XXIII Rule 3 read with



Section 151 of the Code of Civil Procedure, 1908 (“CPC”), to bring on record the terms of settlement arrived at between the plaintiff and the contesting defendant nos. 1 to 7.

2. It is noted that *CS(COMM) 678/2021*, was instituted by the plaintiff against the defendants for infringement of the trademark/tradename ‘SOMANY’ seeking, *inter alia*, permanent injunction, damages, rendition of accounts, etc., for unauthorised and illegal use of the mark ‘SOMANY’ by defendant nos. 1 to 7 for their goods and defendant no. 8, i.e., Flipkart Internet Pvt. Ltd., on whose platform the contesting defendant nos. 1 to 7, used to offer their infringing goods.

3. By way of judgment dated 28th July, 2022, this Court had restrained the defendant nos. 1 to 7 from using the infringing mark in connection with their goods and services, and were given a period of six months to exhaust all the infringing products in their possession.

4. Subsequently, vide affidavit dated 31st January, 2023, filed on behalf of defendant nos. 1 to 7, it was undertaken that the defendant nos. 1 to 7 had ceased the use of the impugned trademark/trade name, ‘SOMANY’, in relation to any goods sold by them, in compliance of the judgment dated 28th July, 2022, passed by this Court, and they shall not use the same in future.

5. Subsequently, during the pendency of the present proceedings, the plaintiff and defendant nos. 1 to 7 have arrived at an amicable settlement, terms of which, are contained in Para 5 and 7 of the present application.

6. Learned counsels appearing for the parties confirm the terms of the settlement and pray that the suit be decreed, in terms thereof. They further submits that rectification petition being *C.O. (COMM.IPD-TM) 250/2022*, be also disposed of in terms of the settlement arrived at between the parties.

7. This Court has perused the terms of the settlement and finds the same



to be lawful.

8. In terms of the settlement, the defendant nos. 1 to 7, have undertaken that they have ceased to use the mark 'SOMANY' or any other mark deceptively similar thereto, and have undertaken not to use the same in future, in relation to any goods sold by them or in relation to their business, including, use of the said mark on packaging, invoices, website, advertisements, boards, hoardings, etc.

9. Further, the defendant nos. 1 to 7 have undertaken that they shall ensure that they will withdraw at the earliest, all oppositions filed by them against the plaintiff's use of the mark 'SOMANY', in particularly, described as below:

S. No.	Particular	Filed by
1.	Opposition No. DEL-907840 to Application No. 3236480 of the Plaintiff in Class 11	Filed by Mr. Suresh Kumar, Defendant No.2 before the Registrar of Trademarks
2.	Opposition No. DEL-1013642 to Application No. 4299186 of the Plaintiff in Class 11	Filed by Mr. Suresh Kumar, Mr. Naveen Kumar Mittal, Mr. Manoj Kumar and Mr. Sanjay Kumar, Defendants 2-5 before the Registrar of Trademarks
3.	Opposition No. DEL-1100788 to Application No. 4089440 of the Plaintiff in Class 9	Filed by Mr. Suresh Kumar, Defendant No.2 before the Registrar of Trademarks
4.	Opposition No. DEL-1059583 to Application No. 4508367 of the Plaintiff in Class 11	Filed by Mr. Suresh Kumar, Defendant No.2 before the Registrar of Trademarks
5.	Opposition No. DEL-1110721 to Application No. 4898244 of the Plaintiff in Class 11	Filed by Mr. Suresh Kumar, Defendant No.2 before the Registrar of Trademarks



6.	Opposition No. DEL-1110725 to Application No. 4898245 of the Plaintiff in Class 11	Filed by Mr. Suresh Kumar, Defendant No.2 before the Registrar of Trademarks
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10. It is further submitted that in view of the Assignment Deed dated 19th September, 2024, executed between that parties, the rectification petition filed by the plaintiff against the defendants seeking removal of the trademark/trade name of defendant no. 2 being *TM No. 878241* in Class 11, be disposed of.

11. Accordingly, the present suit is decreed in favour of the plaintiff and against defendant nos. 1 to 7, in terms of the settlement between the parties, terms of which, are contained in Para 5 and Para 7 of the present application, which shall form part of the decree.

12. Parties shall remain bound by the terms and conditions of the Settlement Agreement.

13. It is clarified that the terms of the settlement as contained in Para 7 of the application pertaining to the payment of liquidated damages in case of any violation, pertains to defendant nos. 1 to 7 only.

14. It is further directed that as and when any URLs with respect to any infringing listings is provided by the plaintiff to defendant no. 8, the defendant no. 8 shall take action accordingly.

15. Further, in terms of the Settlement Agreement and in view of the fact that Assignment Deed dated 19th September, 2024, has been executed between the parties, the rectification petition being *C.O. (COMM.IPD-TM) 250/2022*, is accordingly disposed of, by taking note of the aforesaid facts.



16. The Trademark Registry is directed to expeditiously process the withdrawal applications of the defendant nos. 1 to 7, with respect to the opposition proceedings, as detailed in the table contained in Para 9 above.

17. It is further directed that the Trade Mark office shall take on record the Assignment Deed dated 19th September, 2024 executed between the plaintiff and the defendant no. 2, and make necessary changes in the record of Trade Mark Registry in relation to the trademark assigned under the said Assignment Deed.

18. In view of the fact that parties have arrived at a compromise, Registry is directed to issue a certificate for refund of 50% of the Court fees in favour of the plaintiff.

19. Decree sheet be drawn up.

20. The suit as well as rectification petition stand disposed of, along with the pending applications.

21. The Registry is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in, for compliance.

MINI PUSHKARNA, J

OCTOBER 4, 2024

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