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

+ **CS(COMM) 610/2024 & I.A. 44170/2024**

ANUPAM SAXENA

.....Plaintiff

Through: Ms. Kangan Roda, Mr. Nitesh Jain
and Mr. Yash A Arora, Advs.
(M:9711922132)
(Email:info@illuminiip.com)

versus

**SHIV VERMA TRADING AS MARKSONS HERBAL LIFE &
ORS.**

.....Defendants

Through: Mr. Utsav Saxena and Mr. Nikhil
Sabri, Advs. for D-1 (through VC)
Ms. Srishti Kumar, Adv. for D-2 (M:
9956344953)
Mr. Vivek Ayyagari and Mr.
Sanidhya Maheshwari, Advs. for D-3
(M: 9950018832)
Ms. Arushi Mann and Ms. Priyanka
Jaiswal, Advs. for D-4 (M:
9899509779)
(Email:mannarusshi@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **05.11.2024**

I.A. No. 44170/2024 (Application under Order XXIII Rule 3 of CPC)

1. The present is a joint application filed by the plaintiff and defendant no. 1 under Order XXIII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC").
2. The present suit has been filed by the plaintiff seeking injunctive reliefs for its registered intellectual property; and damages for infringement



of its registered trademarks “**ADIBASI**”,

and



being committed by the defendant no. 1 and for passing off and unfair competition.

3. It is submitted that the plaintiff and defendant no. 1 have arrived at a settlement on the terms and conditions, which are set out in paragraph 2 of the present application.

4. Learned counsels appearing for the parties confirm the terms of settlement and pray that the suit be decreed in terms, thereof.

5. The Court has perused the said terms and finds the same to be lawful. Under the terms of the settlement, the defendant no. 1 has agreed that it will not use the plaintiff's registered Trade Marks and/or any similar mark, as a part of its packaging/trade dress/label/ representation for products sold under the plaintiff's registered trademark.

6. Further, the defendant no. 1 has also undertaken that it will withdraw its trademark applications and/or will not prosecute the trademark applications bearing no. 6226215 in Class 05 and bearing no. 6226216 in Class 35, for the mark, "**Adivasi Hair Oil**".

7. Learned counsel appearing for defendant nos. 2 to 4 submits that they are intermediaries and that the main dispute of the plaintiff was with defendant no. 1, which stands settled. Thus, they submit that there is no



impediment in disposal of the present suit in terms of the settlement.

8. Accordingly, the present suit is decreed in favour of the plaintiff and against defendant no. 1 in terms of the settlement, as contained in paragraph 2 of the present application, which shall form part of the decree.

9. Parties shall be bound by the terms and conditions of the settlement.

10. It is further directed that in case the defendant no. 1 does not comply with the terms of the settlement in removing the references, advertisements and listings from the websites of defendant nos. 2 to 4, then the plaintiff shall be at liberty to approach defendant nos. 2 to 4 in this regard, who shall do the needful.

11. In view of the fact that the parties have arrived at the compromise, the registry is directed to issue a Certificate of Refund of Full Court Fee in favour of the plaintiff.

12. Decree sheet be drawn up.

13. Suit, along with the pending applications, stands disposed of.

14. The next dates of hearing, i.e., 20th November, 2024, before the Joint Registrar (Judicial) and 27th November, 2024, before the Court, stand cancelled.

MINI PUSHKARNA, J

NOVEMBER 5, 2024/PU