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

+ **CS(COMM) 831/2022 & I.A. 20200/2022**

**DABUR INDIA LIMITED**

..... Plaintiff

Through: Mr. Kripa Pandit and Mr. Christopher,  
Advocate.

versus

**ASHOK KUMAR AND OTHERS**

..... Defendants

Through: Mr. Ankit Tuli, Adv. along with  
Mr. Manoj, Defendant 2 and Mr. Zahid  
Hussain, Defendant 3 in person

**CORAM:**

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

**ORDER**

**07.05.2024**

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1. Pursuant to the previous order dated 10<sup>th</sup> January, 2024, the settlement agreements executed between the plaintiff and defendant nos.2 and 3 dated 19<sup>th</sup> February, 2024 have been placed on record.
2. Defendant No. 2, Mr. Manoj, and defendant no. 3, Mr. Zahid Hussain, are present in Court today and confirm the factum of settlement.
3. The amounts as agreed to, which form a part of the settlement agreements, have already been paid to the plaintiffs and the same is confirmed by counsel for parties.
4. The terms of agreement between the plaintiff and defendant no. 3 are as under:



- i. The Second Party shall refrain from manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the First Party's registered trademark DABUR AMLA HAIR OIL which includes the



outer packaging, label and/or and complete trade dress or any other trademark/goods of the First Party that is



deceptively, confusingly similar to the First Party's registered trademarks, trade dress, packaging, label/ stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, amounting to infringement of the Pla's registered trademark DABUR AMLA HAIR OIL.

- ii. Second Party shall refrain from manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the First Party's registered trademark DABUR AMLA HAIR OIL which includes the



outer packaging, label and/or and complete trade dress or any other trademark/goods of the First Party that is deceptively, confusingly similar to the First Party's registered trademarks, trade dress, packaging, label/ stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, amounting to passing off of the Defendants' counterfeit products as that of the First Party's original product DABUR AMLA HAIR OIL.



- iii. Second Party shall further refrain from manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the First Party's registered trademark DABUR AMLA HAIR OIL which includes the



- outer packaging, label and/or and complete trade dress or any other trademark/goods of the First Party that is deceptively, confusingly similar to the First Party's registered trademarks, trade dress, packaging, label/ stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, thereby amounting to infringement of the First Party's copyright.
- iv. The Second Party further state that they have agreed to pay the First Party punitive damages in the tune of INR 45,000/- (Rupees Forty-five thousand Only) by way of post-dated cheque (PDC) bearing no. 297102 dated January 26, 2024 toward the present settlement. A copy of the same is annexed herewith as **Annexure C**.



3. The Second Party agree that in case the Second Party is found to be in violation of any of the terms or undertakings of the present settlement agreement, agreed herein, the First Party shall be at liberty to initiate appropriate action and will also be entitled to claim liquidated damages to the tune of INR 10,00,000/- (Rupees Ten Lakhs Only) from the Second Party. This amount shall be paid in the first instance itself and shall be without prejudice to any and all other claims that the First Party may have against the Second Party in law including filing a petition for contempt;
4. The Second Party agrees that the goods seized by the Local Commissioner will be handed over to the authorized representative of the First Party for destruction within 15 days from the date of final order in the present suit. The Second Party hereby agrees that they do not have any stock of the infringing/counterfeit products apart from the infringing/counterfeit products seized by the Local Commissioner under *superdant*.
5. The Parties agree that they shall abide by the terms and conditions set out in the present Settlement Agreement and shall not dispute the same hereinafter in future. The Parties further agree that the statements made by them herein in this Settlement Agreement shall be taken as their respective undertakings and the defaulting party shall be held liable for contempt of court under the Contempt of Courts Act, 1971.
6. The parties hereby agree before this Hon'ble Court that the present settlement shall be binding on all their directors, partners, officers, retailers, agents, distributors, suppliers, affiliates, subsidiaries, franchisees, representatives, successors and assigns and all others acting on their behalf, for all times to come.



7. In consideration of the above undertakings tendered by the Second Party the First Party hereby agrees to forego other prayers and their claims for costs and damages against the Second Party herein.

5. The terms of agreement between the plaintiff and defendant no. 2 are as under:

1. That the Second Party acknowledges that the First Party is the exclusive owner and proprietor of the earlier trade marks in word and labels of Dabur AMLA, Amla Oil – L, Dabur Amla, Dabur Amla Hair Cream, Dabur Amla Gold & Black Hair Oil, Dabur Amla Hair Oil – Cooling across the world including in India. The Second Party also acknowledges the prior registrations obtained by the First Party as enumerated in Para 17 of the Plaint. The Second Party further acknowledges that all rights in law, equity or otherwise in the First Party's earlier trademarks vest exclusively with the First Party. The Second Party agrees to never to challenge the same anywhere in the world, including in India, on any ground whatsoever.
2. In addition to aforementioned, the Second Party also agrees to as follows:
  - i. The Second Party shall refrain from manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the First



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Party's registered trademark DABUR AMLA HAIR OIL which



includes the outer packaging, label and/or and complete trade dress or any other trademark/goods of the First Party that is deceptively, confusingly similar to the First Party's registered trademarks, trade dress, packaging, label/ stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, amounting to infringement of the Pla's registered trademark DABUR AMLA HAIR OIL.

- ii. Second Party shall refrain from manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the First Party's registered trademark DABUR AMLA HAIR OIL which

M. R. Singh

Manoj Kumar





includes the outer packaging, label and/or complete trade dress or any other trademark/goods of the First Party that is deceptively, confusingly similar to the First Party's registered trademarks, trade dress, packaging, label/ stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, amounting to passing off of the Defendants' counterfeit products as that of the First Party's original product DABUR AMLA HAIR OIL.

- iii. Second Party shall further refrain from manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the First Party's registered trademark DABUR AMLA HAIR OIL

*M. R. Singh*

*Mang Kumar*





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which includes the outer packaging, label and/or



and complete trade dress or any other trademark/goods of the First Party that is deceptively, confusingly similar to the First Party's registered trademarks, trade dress, packaging, label/stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, thereby amounting to infringement of the First Party's copyright.

- iv. The Second Party further state that they have agreed to pay the First Party punitive damages in the tune of INR 45,000/- (Rupees Forty-five thousand Only) by way of post-dated cheque (PDC) bearing No. 297102 dated January 26, 2024 toward the present settlement. A copy of the same is annexed herewith as

ANNEXURE C.

M. R. Gupta



M. Raj Kumar



3. The Second Party agree that in case the Second Party is found to be in violation of any of the terms or undertakings of the present Settlement Agreement, agreed herein, the First Party shall be at liberty to initiate appropriate action and will also be entitled to claim liquidated damages to the tune of INR 10,00,000/- (Rupees Ten Lakhs Only) from the Second Party. This amount shall be paid in the first instance itself and shall be without prejudice to any and all other claims that the First Party may have against the Second Party in law including filing a petition for contempt;
4. The Second Party agrees that the goods seized by the Local Commissioner will be handed over to the authorized representative of the First Party for destruction within 15 days from the date of final order in the present suit. The Second Party hereby agrees that they do not have any stock of the infringing/counterfeit products apart from the infringing/counterfeit products seized by the Local Commissioner under *superdari*.
5. The Parties agree that they shall abide by the terms and conditions set out in the present Settlement Agreement and shall not dispute the same hereinafter in future. The Parties further agree that the statements made by them herein in this Settlement Agreement shall be taken as their respective undertakings and the defaulting party shall be held liable for contempt of court under the Contempt of Courts Act, 1971.

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6. The parties hereby agree before this Hon'ble Court that the present settlement shall be binding on all their directors, partners, officers, retailers, agents, distributors, suppliers, affiliates, subsidiaries, franchisees, representatives, successors and assigns and all others acting on their behalf, for all times to come.
7. In consideration of the above undertakings tendered by the Second Party, the First Party hereby agrees to forego other prayers and their claims for costs and damages against the Second Party herein.

6. The court has perused the terms of the settlement agreements and find them to be lawful and acceptable. The settlement agreements have been duly signed by authorised signatories of the parties and counter signed by their respective counsels.
7. Accordingly, parties will be bound by the terms of the settlement agreement executed by them.
8. Decree sheet be drawn up in accordance with the terms of settlement in view of the terms noted above.
9. As regards defendant no.4, counsel for plaintiff states on instructions that they do not want to press any relief except for seeking a decree in terms of prayer para A and B of the plaint, which are reproduced as under:



A. A Decree of permanent injunction restraining the Defendants (and any other such person(s) /entities which are discovered during the course of the proceedings to have been engaging in infringing the Plaintiff's Intellectual Property rights), its owners, partners, proprietors, directors, shareholders, assigns in business, affiliates, subsidiaries, agents, broadcasters, representatives, advertisers, franchisees, licensees and/or all other persons acting on its behalf from in any manner involved with the Defendants:

- i. Manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the Plaintiff's registered trademark DABUR AMLA HAIR OIL which includes the outer packaging, label and complete trade dress or any other trademark/goods of the Plaintiff that is deceptively, confusingly similar to the Plaintiff's registered trademarks, trade dress, packaging, label/stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, amounting to infringement of the Plaintiff's registered trademark DABUR AMLA HAIR OIL and the Plaintiff's well-known registered trademark DABUR and its logo.
- ii. Manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the

M. R. Singh



Plaintiff's registered trademark DABUR AMLA HAIR OIL which includes the outer packaging, label and complete trade dress or any other trademark/goods of the Plaintiff that is deceptively, confusingly similar to the Plaintiff's registered trademarks, trade dress, packaging, label/stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, amounting to passing off of the Defendants' counterfeit products as the Plaintiff's original product DABUR AMLA HAIR OIL and the Plaintiff's well-known registered trademark DABUR and its logo.

- iii. Manufacturing or authorizing the manufacture, selling, offering for sale, marketing, exporting, importing, retailing, supplying, distributing, exhibiting, promoting, labelling, packaging, re-filling, dealing in and / or using/sale of counterfeit goods in any manner whatsoever, under the Plaintiff's registered trademark DABUR AMLA HAIR OIL which includes the outer packaging, label and complete trade dress or any other trademark/goods of the Plaintiff that is deceptively, confusingly similar to the Plaintiff's registered trademarks, trade dress, packaging, label/stickers, bottles and/or bottle caps in relation to any goods or in relation to any promotional, marketing or advertising material or any other material used or intended to be used for labelling or packaging or for promoting any goods or services, thereby amounting to infringement of the Plaintiff's copyright.

M. Rizab



iv. Disposing off or dealing with its assets, including the properties mentioned in the cause title of the Plaint, in a manner which may adversely affect the Plaintiff's ability to recover damages, costs or other pecuniary remedies that may be finally awarded to the Plaintiff.

B. A decree for mandatory injunction directing the Defendants, their directors, group companies, principals, partners, sellers, retailers, marketers, wholesalers, dealers, officers, importers, exporters, employees, agents, distributors, suppliers, affiliates, subsidiaries, franchisees, licensees, representatives, and assigns, legal heirs or any persons involved with Defendants for Delivery-up of all stocks of the counterfeit products including but not limited to finished or unfinished, labels, stickers, wrappers, packages, boxes, bottles, bottle caps, cartons, stationery, posters, brochures, business cards, business envelopes, letterheads, cartons, publicity material, pamphlets, hoardings, signboards, name boards, on-pack advertising, Point of Sale material, packaging and promotional material, and/ or any other material whatsoever, including moulds bearing the Plaintiff's registered trademarks, trade dress, artwork/logo or any other mark or label or device or stylisation which is identical or deceptively and confusingly similar to the Plaintiff's trademarks and trade dress; and deliver / surrender the same, to the Plaintiff or its attorneys or nominated representative(s) for destruction.

M. Rajada

10. Let decree sheet be drawn up *qua* all the defendants, as per the directions given above.

11. As per the terms of the agreement relating to handing over of the goods of the plaintiff for destruction, same be complied with by parties within a



period of 15 days from today.

12. In view of the settlement between the parties, plaintiff is entitled to get full refund of Court fees.

13. Registry is directed accordingly.

14. The suit is disposed of in the above terms.

15. Pending applications if any, are rendered infructuous.

16. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**MAY 7, 2024/RK/sc**