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

+ CS(COMM) 630/2018& I.A. 47917/2024

DART INDUSTRIES INC & ANRPlaintiffs

Through: Mr. Hemant Singh, Mr. Manta R. Jha,
Ms. Shruttima, Mr. Rohan Ahuja, Ms.
Diya Viswanath and Mr. Rahul
Choudhary, Advs. (M: 9110111538)

versus

POLYSET PLASTICS PVT LTD & ORSDefendants

Through: Mr. Rishabh Sancheti and Ms.
Padmapriya, Advs. for D-1 & 3.

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+ CS(COMM) 631/2018& I.A. 47916/2024

DART INDUSTRIES INC & ANRPlaintiffs

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CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

19.12.2024

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1. The present suit has been filed seeking permanent injunction restraining the defendants from using “Aquasafe Bottle” design in any size including 500 ml, 750 ml or 1 liter, bearing the plaintiffs’ design under registration no. 221424 and for the bottle design no. 221425 under Section 44 of the Designs Act, 2000, along with the issue of passing off on account



of the identical/similar trade dress and get up of the bottles.

2. It is the case of the plaintiff that the plaintiff no. 1 has consented to the use of its moulds, its propriety and registered design for manufacture of Tupperware products and their sale in India by plaintiff no. 2.

3. In the 2nd week of May, 2014, the plaintiff came to know about the sale of Glaze Wow Bottle in Delhi-National Capital Territory Region, specifically in Big Bazaar outlet at Gurgaon, Haryana, the same being an imitation of the plaintiffs' "Aquasafe Bottle".

4. The impugned bottle reflected the details of the manufacturer, i.e., the defendants.

5. Accordingly, an investigation was conducted by the plaintiffs and a report was submitted by the investigator, which not only discloses about the sale of the Glaze Wow Bottle by the defendants, but also disclosed imitation of the plaintiffs' "Eco Flip Top Bottle" by the defendants.

6. Thus, the plaintiff being aggrieved by the aforesaid actions of the defendant, filed the present suits.

7. When the matter was listed for hearing on 11th December, 2024, the following order came to be passed:-

"xxx xxx xxx

1. Learned counsel for the plaintiffs submits that if the defendants are ready to suffer the decree of permanent injunction, subject to destruction of moulds, the plaintiffs shall give up their prayer, for cost and damages.

2. Learned counsel for the defendants submits that she shall take requisite instructions in that regard.

3. At request, re-notify on 19th December, 2014.

xxx xxx xxx"



8. Today, learned counsel appearing for the defendant nos. 1 and 3 submits that she has instructions to submit that the defendant nos. 1 and 3 are ready to suffer a decree of permanent injunction.
9. She further submits that the defendant nos. 1 and 3 shall also destroy the moulds.
10. Learned counsel appearing for the plaintiffs expresses the satisfaction over the statement given by learned counsel appearing for defendant nos. 1 and 3.
11. Learned counsel appearing for the plaintiff submits that the defendant no. 2 in its written statement has categorically stated that it has nothing to do with the manufacture or sale of the bottle with the impugned design or any relation with defendant nos. 1 and 3.
12. She, thus, submits that the plaintiffs give up their prayer against defendant no. 2.
13. The aforesaid statement is recorded and the parties are held bound by this statement.
14. With the consent of the parties, the suit is decreed in favor of the plaintiffs and against defendant nos. 1 and 3 in terms of paragraph 33(i) and (ii) of the plaint.
15. The decree sheet be drawn up, accordingly.
16. The present suit, along with all pending applications, is disposed of.
17. The next date of hearing i.e. 12th February, 2025, stands cancelled.

MINI PUSHKARNA, J

DECEMBER 19, 2024/ng