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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 646/2018, I.A. 5222/2023 & I.A. 46664/2024**
M/S ALLIED BLENDERS & DISTILERS PVT. LTD.Plaintiff

Through: Mr. Pravin Anand, Mr. Shrawan
Chopra and Mr. Achyut Tewari,
Advs.
M: 8604633567

versus

VENKATESHWARA DISTILLERIES & ANR.Defendants
Through: Mr. Ayush P. Shah, Adv. for D-2
(Through VC)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
29.11.2024

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**I.A. 46664/2024 (Application under Order XXIII Rule 3 read with
Section 151 of CPC)**

1. The present application has been filed under Order XXIII Rule 3 read with Section 151 of Code of Civil Procedure, 1908 ("CPC").
2. The present suit has been filed seeking permanent injunction against the defendants restraining infringement of trademark 'OFFICER'S CHOICE' and copyright, unfair competition, passing off, damages, delivery up, etc.
3. During the pendency of the present suit, plaintiff and defendant no.2 have arrived at a settlement, terms of which, are set out in paragraph 2 of the present application.



4. In terms of the joint settlement, the defendant no.2 acknowledges that the plaintiff is the proprietor of the trademark OFFICER'S CHOICE. Further, the defendant no.2 also acknowledges the plaintiff's copyright in the plaintiff's OFFICER'S CHOICE label.

5. In view of the aforesaid, the present suit is decreed in favour of the plaintiff and against the defendant no.2 in terms of the settlement, as contained in paragraphs 2 and 3 of the present application, which shall form part of the decree and in terms of paragraph 34 (i) to (iv) of the amended plaint.

6. Decree sheet be drawn up.

CS(COMM) 646/2018

7. Learned counsel appearing for the plaintiff brings to the notice of this Court that none has been appearing on behalf of defendant no.1, since long.

8. He further submits that no written statement has been filed on behalf of defendant no.1, though, in order dated 20th November, 2014, it has been recorded that defendant no.1 adopts the written statement of defendant no.2.

The order dated 20th November, 2014, reads as under:

"CS(OS) 1769/2014 and IA No. 11123/2014

Written statement and reply to the injunction application filed on behalf of the defendant no. 2. Ld. counsel for defendant nos. 1 and 2 submits that defendant no. 1 shall be adopting the written statement and reply filed by defendant no.2.

Ld. counsel for plaintiff submits that she has filed replication vide Dy. No. 228312 dated 19.11.2014 and rejoinder to the injunction application on vide Dy. No. 228665 dated 20.11.2014. But the same are not on record. Ld. counsel for plaintiff to ensure that same are placed on record before the next date of hearing.

IA No. 13110/2014

Ld. counsel for defendant nos. 1 and 2 submits that he has not received



the notice of the application. Another copy be supplied to defendant nos. 1 and 2 during the course of the day.

Reply to the application be filed within two weeks with copy to the plaintiff. Rejoinder, if any, be filed before the next date of hearing.

IA No. 14225/2014

Reply has been filed by the plaintiff yesterday vide Dy. No. 228310.

Rejoinder, if any, be filed within a week. Rejoinder, if any, be filed within two weeks thereafter.

Matter be placed before the Hon'ble Court for considerations of IA No. 13110/2014 and IA No. 14225/2014 on 11th December, 2014, the date already fixed.”

9. This Court has confirmed from Mr. Ayush P. Shah, learned counsel appearing for defendant no.2, as to whether he is appearing for defendant no.1, also. However, the said counsel submits that he is appearing only for defendant no.2 and does not represent defendant no.1.

10. Considering the submissions made before this Court and considering the fact that no separate written statement has been filed by defendant no. 1 and considering the fact that defendant no.2 has already settled the dispute with the plaintiff, this Court is of the view that in the absence of the written statement filed by defendant no.1, there is no plausible defense raised on behalf of the defendant no.1.

11. Further, none has been appearing on behalf of defendant no.1 for a long time.

12. This Court also records that in the order dated 24th February, 2021, it is specifically recorded, as follows:

“xxx xxx xxx

3. *Learned counsel for the defendant no.2 submits that he has no*



*objection if the application is allowed. **There has been no appearance on behalf of the defendant no. 1 for last many dates.***

xxx xxx xxx”

(Emphasis Supplied)

13. Considering the facts and circumstances of the present case, noting the jurisdiction of this Court under Order VIII Rule 10, the present suit is decreed in favour of the plaintiff and against the defendant no.1 in terms of paragraph 34 (i) to (iv) of the amended plaint.

14. Decree sheet be drawn up.

15. The present suit, along with the pending applications, stands disposed of.

MINI PUSHKARNA, J

NOVEMBER 29, 2024/kr