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

+ **CS(COMM) 958/2024 & I.A. 48837/2024**

MANKIND PHARMA LIMITED

.....Plaintiff

Through: Mr. Ankur Sangal, Mr. Ankit Arvind,
Mr. Shashwat Rakshit and Ms. Nidhi
Pathak, Advocates.

versus

AQUAKIND LABS LLP & ORS.

.....Defendant

Through: Mr. Sushant Srivastava, Defendant
no. 2 in person.
(M): 9984646060
Email: aquakindlabs@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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18.12.2024

I.A. 48837/2024 (Application under Order XXIII Rule 3 read with Section 151 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") filed jointly by the plaintiff and the defendants.
2. The present suit has been filed seeking permanent injunction restraining infringement of trade mark, passing off, unfair trade practice, rendition of accounts, damages etc. against the defendants for adoption and use of the infringing trademark/corporate name/trade name, "AQUAKIND"/

AQUAKIND LABS 

AQUAKIND LABS LLP" /



3. This Court vide order dated 25th October, 2024 had granted an *ad-interim injunction* against the defendants, restraining them from selling, offering for sale, advertising, directly or indirectly, dealing in any goods and services under the impugned trademark/trade name "AQUAKIND"/

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AQUAKIND LABS LLP" / , or any other trade mark/ trade name, as may be identical to or deceptively similar with the plaintiff's registered trademarks 'MANKIND' and/or 'KIND' formative trademarks and their variants, thereof.

4. Learned counsel appearing for the parties submit that during the pendency of the present suit, the parties have agreed to amicably resolve the present dispute by way of a settlement, the terms of which, are contained in Para 3 of the present application.

5. Learned counsel appearing for the plaintiff as well as defendant no. 2, who is the owner of defendant no.1, and present before this Court in person, submits that the suit can be decreed in terms of the settlement between the parties.

6. This Court has perused the terms of the settlement and finds the same to be lawful.

7. In terms of the settlement, the defendants have acknowledged that the plaintiff is the sole and exclusive proprietor of the trademark/trade name MANKIND' and/or 'KIND' formative trademarks.

8. Further, the defendants have agreed and undertaken that they will not use the trademark/ trade name "AQUAKIND"/ AQUAKIND LABS LLP" /

AQUAKIND LABS 

, or any other trademark/ trade name, as



may be identical to or deceptively similar with the plaintiff's trademarks 'MANKIND' and/or 'KIND' formative trademarks.

9. Further, the defendants have confirmed that they will withdraw

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application bearing no. 6040767 for in Class 5 and/or any other trademark application/registration, which is identical or deceptively similar to the plaintiff's trademarks MANKIND' and/or 'KIND' formative trademarks. They further undertake that they will not file any such trademark applications in the future.

10. It is one of the terms of the settlement that the defendants shall be permitted to exhaust the stock seized during the execution of the local commission on 7th November, 2024, in terms of the order dated 25th October, 2024, within a period of six months from execution of the present application.

11. The defendants further undertake to sell the seized stock only within the territory of Fatehgarh, Farrukhabad and exclusively through its existing four sale counters in Fatehgarh, Farrukhabad.

12. Accordingly, the present suit is decreed in favour the plaintiff and against the defendants in terms of settlement between the parties, which shall form part of the decree and in terms of prayers a, b, c and d of the plaint.

13. The parties are bound by the terms of the settlement.

14. The Trade Mark Registry shall expeditiously process the application of the defendants, as and when such application is filed, for withdrawal of the trademark application bearing no. 6040767 for



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in Class 5.

15. Decree sheet be drawn up.

16. In view of the fact that the parties have arrived at a settlement, the Registry of this Court is directed to issue a certificate of refund of Full Court Fees in favour of the plaintiff.

17. With the aforesaid directions, the present suit along with the pending applications stands disposed of.

18. The next dates, i.e., 18th December, 2024 before the Joint Registrar and 10th March, 2025 before the Court, stands cancelled.

MINI PUSHKARNA, J

DECEMBER 18, 2024

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