



\$~21

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

+ **CS(COMM) 1046/2024 & I.A. 46115/2024**

M/S MRS. BECTORS FOOD SPECIALITIES LTD.Plaintiff

Through: Mr. Shailen Bhatia, Mr. Raghav
Bhalla, Mr. Varun Kajla and Ms.
Sheril Bhatia, Advs.
(M): 9818558690

versus

M/S RAJSON EXPORTSDefendant

Through: Ms. Archana Sahadeva, and Mr.
Harshit Bhoi, Advocates
Mob: 8269272060
Email:
[archana@sahadevalaw_chambers.co
m](mailto:archana@sahadevalaw_chambers.com)

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER
05.12.2024**

%

1. The present suit has been filed seeking permanent injunction against the defendant, restraining the infringement of trademarks, copyright, passing off of trade mark and damages, delivery up etc.
2. By way of the present suit, the plaintiff is essentially aggrieved by the use of the identical label/packaging by the defendant, which consists of identical colour combination, text, font, devices, placement of devices, get-up etc. by the defendant for the same goods, being biscuits and cookies. The impugned products of the defendant, are reproduced as below:



3. It is the case of the plaintiff that the impugned trade mark/label and packaging of the defendant, is a clone of the prior adopted, used and registered trade mark/label and packaging of the plaintiff. The defendant has copied each and every element from the trade mark/ label and artistic work, i.e., MRS. BECTOR'S CREMICA GLUCOSE ENERGY



BISCUITS/ /MRS. BECTOR'S CREMICA MALT N MILK



COOKIES/ of the plaintiff.

4. It is the case of the plaintiff that the defendant is neither the proprietor nor the permitted user of the impugned trademark/label, ENERGY



BISCUIT GLUCOSE/

MALT N MILK BISCUIT



. Further, it is the case of the plaintiff that the identical trade mark/label and artistic work is being used by the defendant without the leave and license of the plaintiff.

5. When the present matter was listed for hearing on 26th November, 2024, learned counsel appearing for the defendant had put in appearance on advance service and had stated that as regards the product by the name



MALT and MILK, , the defendant has already discontinued the manufacturing and marketing of the said biscuits four years ago. It was further stated that as regards the glucose biscuits, the defendant is ready to change the trade dress, so that the same is not identical or deceptively similar to that of the plaintiff's product.

6. Today, learned counsel appearing for the defendant submits that the defendant is ready to suffer a decree. She, however, submits that the defendant will continue to have right to use its trade mark "JOJO" as well as the tagline ENERGY BISCUIT GLUCOSE.

7. The defendant is held bound by the aforesaid undertaking.

8. Learned counsel appearing for the plaintiff submits that he is satisfied



with the undertaking and statement given on behalf of defendant. He further submits that the plaintiff is ready to give up its prayers (g) and (h), and submits that the suit be decreed in terms of the other prayers.

9. Accordingly, with the consent of the parties, the suit is decreed in favour of the plaintiff and against the defendant in terms of Para 58 (a) to (f) of the plaint.

10. It is clarified that the defendant is at liberty to use its trade mark “JOJO”, as well as any tagline relating to the ‘ENERGY BISCUIT GLUCOSE’.

11. Considering the fact that the suit is being disposed of with the consent of the parties and on the parties reaching settlement before this Court, the Registry of this Court is directed to issue certificate of Refund of Full Court Fees in favour of the plaintiff.

12. Let decree sheet be drawn.

13. The present suit, along with pending application, accordingly stands disposed of.

14. The next date of hearing of 21st January, 2025, stands cancelled.

MINI PUSHKARNA, J

DECEMBER 5, 2024/nd