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

+ **CS(COMM) 169/2024, I.A. 4460/2024-Stay**

IMPRESARIO ENTERTAINMENT AND HOSPITALITY PVT LTD
.....Plaintiff

Through: Ms. Sikha Sachdeva and Ms. Kriti
Rathi, Advocates

versus

M/S CAFE SOCIAL THROUGH ITS PROPRIETOR

.....Defendant

Through: Ms. Nitai Agarwal, Advocate
through VC

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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08.05.2025

I.A. 11609/2025 (Application filed under Order XXIII Rule 3 read with Section 151 of the CPC)

1. The present application under *Order XXIII Rule 3* of the Code of the Civil Procedure, 1908 (**CPC**) has been filed jointly on behalf of the plaintiff and the defendant seeking a consent decree based in terms of the settlement arrived at between them, as recorded in *paragraph no.3* of the present application, which is reproduced as under:-

“3. That during the pendency of the proceedings, the Defendant has approached the Plaintiff and the parties have agreed to settle the dispute in the present suit on the following terms:

A. The Defendant acknowledges that the Plaintiff is the prior adopter, registered proprietor and user of the trade mark 'SOCIAL' and all its variants, as have been mentioned in the Plaint;

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B. The Defendant acknowledges the fame and reputation of the aforesaid trade marks in India and undertakes never to challenge the rights of the Plaintiff with respect to the above trade marks and/or any formatives thereof at any time, in any proceedings in the courts of law or otherwise, anywhere in the world, including in India;

C. The Defendant further undertakes to this Hon'ble Court that the Defendant, its directors, principals, proprietors, partners, employees, agents, distributors, franchisees, representatives and assignees (a reference to assignees will hereinafter include any associated and/or group company of the Defendant) will, with immediate effect, do as under:

i) refrain from using the trade mark 'SOCIAL' and/or any other trade mark identical/ deceptively similar to the Plaintiffs trade mark 'SOCIAL' either as a trade mark or part of a trade mark, a trade name/ corporate name, domain name, social media handles or any part thereof and/or in any other manner whatsoever, including representing it a manner identical/ deceptively similar to the Plaintiffs trade mark 'SOCIAL', so as not to infringe the Plaintiffs trade mark and/or pass off its goods or business as and for the goods or business of the Plaintiff for all times to come;

ii) the Defendant, its directors, employees, and assignees affirm that they have discontinued the use of the trade mark 'SOCIAL' as directed by this Hon'ble Court and undertake never to use the same and/or any other identical/ deceptively similar trade mark or trade name for all times to come;

iii) discontinue advertising the offending trade mark 'CAFÉ SOCIAL' and/or any other trade mark identical/ deceptively similar to the Plaintiffs trade mark 'SOCIAL' on Zomato, Swiggy and/or through any other online or offline channels that it may have advertised the offending trade mark with immediate effect;

iv) never apply for the registration of the trade mark 'CAFÉ SOCIAL' or any other trade mark comprising of the word 'SOCIAL' and/or any other trade mark identical/ deceptively similar thereto, for all times to come either in India or anywhere else in the world;

v) never oppose any application filed by the Plaintiff for the trade mark 'SOCIAL' and/or any other trade mark bearing the word 'SOCIAL' as part thereof and its variants in India or anywhere else in the world;

vi) shall not open or operate any restaurant/cafe/bar, in India or anywhere in the world, under the trade mark/ trade name "CAFE SOCIAL" and/or comprising of the word "SOCIAL" as a part thereof

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and/or using any other indicia to show that it is in any manner connected and/or affiliated with the Plaintiff or its business;

vii) refrain from advertising the offending trade mark or any other trade mark containing the Plaintiff's trade mark 'SOCIAL' and/or any other mark identical/deceptively similar thereto for all times to come, whether online or offline;

viii) refrain from adopting any domain name/ social media handle in which the Plaintiff's trade mark 'SOCIAL' and/or any other deceptively similar trade mark is a part thereof;

D. The Defendant shall suffer a decree in accordance with prayer A of the Plaintiff;

E. The Defendant further states on solemn oath before this Hon'ble Court as under:

i) that they shall never advertise the offending trade mark 'CAFE

SOCIAL/  and/or any other trade mark deceptively similar to the Plaintiff's trade mark 'SOCIAL' for all times to come, whether through online or offline channels; and

ii) that they are not in any manner using and/or selling any product and/or offering any service under the trade mark 'CAFE SOCIAL' and/or any other trade mark in which 'SOCIAL' is forming a part and/or any other trade mark identical/ deceptively similar to the trade mark 'SOCIAL' anywhere in the world and undertakes never to do so for all times to come."

2. The present application is duly supported by affidavits of the authorized representatives of the plaintiff and the defendant.

3. Learned counsels of the parties confirm the terms of the above settlement and identify the signatures of their respective clients and pray that the suit be decreed in the aforesaid terms.

4. This Court has perused the terms of settlement as recorded *inter se* the plaintiff and the defendant and finds them to be lawful.

5. In view thereof, the present application is allowed and disposed of.

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6. Learned counsel appearing for the plaintiff, in view of the settlement entered *inter se* the plaintiff and the defendant, submits that since the disputes *inter se* them have been settled, the plaintiff does not wish to press for the other applications filed along with the present suit, and prays that the present suit be decreed in terms of the aforesaid settlement as recorded in *paragraph no.3* of the accompanying application, i.e. I.A. 11609/2025 and reproduced hereinabove.

7. Accordingly, the present suit is decreed in terms of the settlement as recorded in *paragraph no.3* of I.A. 11609/2025 and reproduced hereinabove.

8. Needless to say, the plaintiff and the defendant shall remain bound by the terms of settlement as recorded in *paragraph no.3* of I.A. 11609/2025 and reproduced hereinabove.

9. At this stage, learned counsel for the plaintiff prays that since the disputes between the parties have been settled amicably, the Court fees paid by the plaintiff be refunded in terms of *Section 16* of the Court Fees Act, 1870.

10. This Court is of the view that since the disputes between the parties have been amicably settled and in view of the prayer made by the learned counsel for the plaintiff, refund of 75% of the Court fees paid by the plaintiff is justifiable.

11. Let a Certificate of refund of 75% of the Court fees paid by the plaintiff be prepared by the Registry and handed over to the learned counsel for the plaintiff.

12. Registry is directed to draw up decree sheet accordingly. The terms as recorded in *paragraph no.3* of I.A. 11609/2025 and reproduced

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hereinabove shall form a part of the decree sheet.

13. Accordingly, in view of the above, the present suit, alongwith the pending applications, stands disposed of.

MAY 8, 2025/So

SAURABH BANERJEE, J

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