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

+ **CS(COMM) 184/2023, I.A. 6128/2023-Stay, I.A. 16888/2023-O 39
R 2A**

ZYDUS HEALTHCARE LTD & ANR.

.....Plaintiffs

Through: Mr. P.S. Majumdar and Ms.
Sandhya Kukreti, Advs.

versus

SHAHID AHMAD MIR & ANR.

.....Defendants

Through: D-1 in person.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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07.07.2025

I.A.15529/2025-under Order 23 Rule 3 of CPC

1. This is a joint application under *Order XXIII Rule 3* of the Code of the Civil Procedure, 1908 (**CPC**) filed on behalf of the plaintiffs and the defendants seeking a consent decree based on the terms of settlement as mentioned in *para 2* of the present application, which is reproduced as under:-

“i) The Plaintiffs and Defendants hereby agree that the present suit proceedings can be disposed of in accordance with the terms of settlement contained in the present agreement.

ii) The Defendants undertake by themselves, their principal officers, assignees, family members, servants and agents and all other persons claiming under them to not manufacture, sell, offer for sale, advertise, promote, use or in any manner deal with or under the mark “PROTIMED” or any other mark/name/label/device that is identical or deceptively similar to the Plaintiffs’ mark “PROTIMED” or its variants.



iii) *The Defendants undertake not to manufacture/sell/use or in any manner deal with the product packaging comprising the colours brown, cream and/or white or any other packaging which is in violation of the Plaintiffs' rights in the product packaging/trade dress used on its product.*

iv) *The Defendants admit and acknowledge the prior and superior rights of the Plaintiffs in the mark "PROTIMED" and agree to transfer all rights and associated goodwill in the registered trademark "PROTIMED" bearing number 2159273 in class 5, currently registered in the name of Defendant No 1, to the Plaintiffs, wherein the agreed consideration for the same is Rs. 5,00,000 which has been paid to the Defendants on 17.01.2025 via RTGS No. MUMHDFCR52025011781692746.*

v) *The Parties will also take steps to have the formal assignment deed recorded in the records of the Trade Mark Registry. However, the time taken in having the settlement recorded or any procedural delay in taking the same on record by the registry will not affect the rights of the Plaintiffs in the mark PROTIMED, which will be deemed to be vested on the Plaintiffs from the date of the payment of the consideration i.e. from 17.01.2025.*

vi) *That owing to the complete transfer of rights of the trade mark PROTIMED to the Plaintiffs, the rectification petition bearing number C.O. (COMM.IPD-TM) 127/2023 filed by the Plaintiffs against the trade mark PROTIMED bearing application number 2159273 in class 5, will be formally withdrawn by the Petitioner upon signing of the said agreement."*

2. The present application is duly supported by affidavits of the authorized representatives of the plaintiffs and the defendants.
3. Learned counsel of the parties confirm the terms of the settlement and identify the signatures of their respective clients and pray that the suit be decreed in the aforesaid terms as mentioned in *para 2* of the present application.
4. This Court has perused the terms of settlement as recorded *inter-se* the plaintiffs and the defendants and finds them to be lawful.
5. In view thereof, the present application is allowed and disposed of.



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2A of CPC**

6. Learned counsel appearing for the plaintiffs, in view of the settlement entered *inter-se* the plaintiffs and the defendants, prays that since the dispute *inter se* them have been settled, the present suit be decreed in the terms of aforesaid settlement as mentioned in *para 2* of the application bearing no. I.A.15529/2025.

7. Accordingly, the present suit is decreed in terms of the settlement as recorded in *para 2* of the application bearing no. I.A.15529/2025.

8. Needless to mention that the plaintiffs and the defendants shall remain bound by the terms of settlement as recorded in *para 2* of the application bearing no. I.A.15529/2025.

9. Registry is directed to draw up Decree sheet accordingly.

10. Needless to mention, the aforesaid terms as mentioned in *para 2* of the application bearing no. I.A.15529/2025, shall form a part of the decree sheet.

11. Accordingly, in view of the above, the present suit, is disposed of.

SAURABH BANERJEE, J.

JULY 07, 2025/bh