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

+ **CS(COMM) 513/2022, I.A. 11789/2022, I.A. 11790/2022 & I.A. 39202/2024**

DFM FOODS LIMITED

.....Plaintiff

Through: Mr. Dhruv Anand, Ms. Udit Patro,
Ms. Sampurnaa Sanyal, Ms. Nimrat
Singh, Advocates (M:9870201041)

versus

CHANDEL STORE & ORS.

.....Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

11.03.2025

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I.A. 39202/2024 (Application under Order XIII-A Rules 3 and 6(1)(a) of the Commercial Courts Act, 2015 read with Section 151 CPC)

1. The present application has been filed Order XIII-A, Rules 3 and 6(1)(a), read with Section 151 of the Code of Civil Procedure, 1908 ("CPC"), as amended by the Commercial Courts Act, 2015, seeking summary judgment against defendant no. 1.

2. It is pointed out that defendant no. 1 is a retail shopkeeper, who was found to be selling infringing products of the plaintiff. This Court notes that defendant nos. 2 and 3 were manufacturer of the infringing products, with whom, the plaintiff has already settled the matter *vide* Settlement Agreement dated 07th February, 2024. Pursuant to the same, *vide* order dated 11th September, 2024, the suit already stands decreed in favour of the plaintiff and against defendant nos. 2 and 3, in the following manner:



“xxx xxx xxx

5. As per the settlement, the defendant nos. 2 and 3 have acknowledged the plaintiff, to be the proprietor of the trademark ‘CURLS’. The defendants have further acknowledged that by manufacturing, offering for sale, stocking, selling or otherwise



dealing in products, bearing deceptively similar mark and/or the ‘CURLS’ trademarks of the plaintiff, the defendants have violated the trademark rights of the plaintiff.

6. Further, the defendants have undertaken not to import, offer for sale or supply etc. in goods bearing the deceptively similar mark



and/or ‘CURLS’. Further, the defendant no. 3 has undertaken to discontinue the manufacture and sale of infringing ‘CURLS’ products.

7. Accordingly, the suit is decreed in favour of the plaintiff and against defendant nos. 2 and 3, in terms of the Settlement Agreement dated 07th February, 2024, and in terms of para 58 (a) to (c) of the plaint, which shall form part of the decree.

xxx xxx xxx”

3. This Court notes that in the written statement filed on behalf of the defendant no. 1, it has been stated as follows:

“xxx xxx xxx

25. That the contents of para 25 of the suit are wrong, manipulated and denied that around the last week of May, 2022, the Plaintiff first came to know about the infringing use of the mark ‘CURLS’ when the Plaintiffs representatives came across an infringing ‘CURLS’ corn based snack product being sold by the Defendant No.1 in Patna, Bihar. It is submitted that the Defendant No.1 has never sold the corn based snack product of the Plaintiff and violated and infringed the rights of the Plaintiff mark of CURLS. The Defendant No.1 has a small retailer shop. The Plaintiff is bound to produce substantial material on record due to that this Hon'ble Court may be satisfied to that extent that the Defendant No.1 has violated and infringed the trade mark of the Plaintiff. Only the photographs of the shop is not sufficient to accrue cause of action against the Defendant No. 1. It is



also submitted that the submissions of the Plaintiff is a planned in nature against the Defendant No.1, hence the Defendant No.1 may be deleted from the array of the parties of the present suit.

xxx xxx xxx”

4. Perusal of the aforesaid clearly shows that it is the categorical stand of defendant no. 1 that it has never sold the infringing product of the plaintiff.

5. However, attention of this Court has been drawn by learned counsel for the plaintiff, to the document filed along with the plaint, wherein, the product which was purchased from the shop of defendant no. 1, and the photograph of the store of the defendant no. 1 has been attached, which is reproduced as under:





6. Learned counsel for the plaintiff has further drawn the attention of this Court to the affidavit of service, to show that defendant no. 1 refused service of the present application.

7. Accordingly, considering the aforesaid, defendant no. 1 is deemed to be served.

8. Learned counsel for the plaintiff submits that he does not press for any costs and damages against the defendant no.1 and shall be satisfied, if decree is passed in favour of the plaintiff.

9. Considering the submissions made before this Court, and considering



the stand taken by defendant no. 1 in its written statement, the present suit is decreed in favour of the plaintiff and against defendant no. 1, in terms of Para 58 (a) to (c) of the plaint.

10. Let decree sheet be drawn up.

11. Accordingly, the present suit, along with pending applications, stands disposed of.

MINI PUSHKARNA, J

MARCH 11, 2025

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