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

+ **C.O. (COMM.IPD-TM) 285/2022**

J.K OIL INDUSTRIES

.....Petitioner

Through: **Mr. Ajay Amitabh Suman, Advocate**
(M:9990389539)

versus

SHREE SANWARIA OIL MILL

.....Respondent

Through: **Mr. Sandeep Kr. Mahapatra, CGSC**
with **Mr. Tribhuvan, Mr. Ishwar**
Malhotra, Advocates for R-2
(M:9811472444)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

04.03.2025

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1. The present petition has been filed seeking cancellation/rectification of the trademarks 'JAMBH' registered under no. 3453490 in Class 31 in the name of respondent no. 1.
2. It is the case of the petitioner that the mark 'JAMBH' of the respondent no. 1, is identical/deceptively similar to the prior mark of the petitioner, i.e., 'JUMBO'.
3. Learned counsel for the petitioner has handed over a copy of an order dated 10th December, 2024, in *CS(COMM) 432/2019*, passed by the learned District Judge (Commercial Court)-02, Patiala House Court, arising out of similar dispute between the parties, i.e., petitioner and respondent no. 1. The order dated 10th December, 2024, reads as under:

"Heard. File perused.

At the outset, Ld. Counsel of plaintiff, on instructions, states at Bar,



the matter has been settled between the parties by way of out of court settlement and hence, he wishes to withdraw the applications u/s 151 CPC, one dated 10-10-2024 for recalling order dated 27-9-2024 and another dated 18-10-2024 for stay of trial before Ld. Local Commissioner.

Having considered the submissions made on behalf of applicant/ plaintiff, aforesaid both the applications are hereby dismissed as withdrawn.

At this stage, it is jointly submitted on behalf of both the sides that entire disputes involved in the present matter have been settled between parties, by way of out of Court Settlement, according to which, defendant has agreed, inter alia, not to use the impugned trade marks/ labels “JAMBH” or any other trade mark/ word mark/ label, in any form and manner which is identical and / or confusingly or deceptively similar to plaintiff’s registered trade marks/ labels “JUMBO” for any goods and services thereby infringing plaintiff’s registered trade mark, copy right and passing off their goods and business as that of the goods and business of the plaintiff. It is further submitted on behalf of both the sides that the defendant shall withdraw its TM Application No. 3453490 filed by them before the Trade Mark Registry for the impugned trade mark JAMBH and in view of settlement, the plaintiff shall not claim any damages / costs in any manner whatsoever from the defendant qua the present suit. Therefore, it is jointly prayed that consent decree may be passed, in terms of aforesaid settlement.

Partners of defendant have also appeared through video conferencing and they have affirmed the aforesaid terms of settlement.

Accordingly, separate statements of counsels of both the sides are recorded in this regard.

Both parties shall remain bound by the statements made by their respective counsels on their behalf.

Having considered the submissions made on behalf of both the sides and in view of settlement/ statements recorded on behalf of both the sides and keeping in view overall facts and circumstances of the case, the suit is decreed in favour of plaintiff and against defendant in terms of statements made on behalf of both the sides/ settlement. The statements made on behalf of both the sides/ settlement shall form part and parcel of this order.

Decree sheet be drawn up accordingly.

File be consigned to record room, after due compliance.”

(Emphasis Supplied)



4. Perusal of the aforesaid order clearly shows that respondent no. 1 has categorically stated that it shall not use the trademark/label 'JAMBH' or any other trademark/word mark/label, in any form or manner, which is identical or confusingly or deceptively similar to the petitioner's registered trademark/label 'JUMBO'.
5. Further, respondent no. 1 has also undertaken to withdraw its trademark application no. 3453490 filed by it before the Trademark Registry.
6. The present petition pertains to the same trademark, i.e., 'JAMBH' registered *vide* trademark application no. 3453490, *qua* which, the respondent has already settled the matter with the petitioner herein.
7. Accordingly, considering the aforesaid, the trademark 'JAMBH', registered in the name of respondent no. 1, *vide* trademark application no. 3453490 in Class 31, is hereby cancelled.
8. Respondent no. 2, i.e., Registrar of Trademarks, is directed to carry out the requisite rectification in its Trademark Register.
9. Further, the requisite notification shall also be issued by the Registrar of Trademark, in this regard.
10. The Registry is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in, for compliance.
11. Accordingly, the present petition is allowed and disposed of, in the aforesaid terms.

MINI PUSHKARNA, J

MARCH 4, 2025

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