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

\+ CS(COMM) 541/2018

BISHAN PUROHIT .....Plaintiff

Through: Mr. Pankaj Kumar, Advocate.

versus

MR NENSINGH & ORS .....Defendants

Through: Mr. Umesh Mishra and Ms. Yashodhara Raina, Advocates for D-1 to D-4.

**CORAM:**
**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**O R D E R**

**% 14.07.2025**

**I.A. 16377/2025 (*Order XXIII Rule 3 of the 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 plaintiff and the defendant nos.1 to 4 seeking a consent decree based on the terms of settlement as mentioned in *para 6(i) to 6(xii)* of the present application, which is reproduced as under:-

> *"... ...6. That the Plaintiff and the Defendants have amicably settled the matter which is subject matter of present suit on following terms:*
>
> *(i) That the Defendants admit the proprietary rights of the Plaintiff in the registered trademark MONITOR LABEL & MONITEC LABEL and trade name NEELKANTH SWITCH GEARS under trademark numbers mentioned in the plaint and also accepts that the Plaintiff is the rightful and exclusive owner of the*



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*said trademark/label and its other formative marks in respect to wide range of Electrical goods, accessories, fittings and Electrical Appliances & related goods.*

*(ii) That the Defendants also admit the copyright of the Plaintiff in the artistic work of the Plaintiffs said trademarks/labels* ***MONITOR LABEL & MONITEC LABEL.***

*(iii) That the defendants undertake not to use the impugned trademark/label/trade name MONTEIL LABEL, K.C.P MONITAR and trade name NEELKANTH SWITCH GEARS or any other trademark/label/trade name identical with and/or deceptively similar to the Plaintiffs said trademark/label MONITOR LABEL & MONITEC LABEL and trade name NEELKANTH SWITCH GEARS in relation to their impugned goods and business of Electrical and Electronic apparatus and instruments including Wire and Cable Accessories and related/allied products.*

*(iv) That the defendants admit the registration of trademark/label MONITOR LABEL & MONITEC LABEL bearing nos. 662855 in class 09, 1184261 in class 07, 1184262 in class 11, 1337001 in class 35, 1209944 in class 11, 1337002 in class 3 5 in favour of the plaintiff as legal and valid.*

*(v) That the defendants also undertake not to pass off their goods as those of the plaintiff by use of the impugned trademark/label or otherwise. Defendants further undertake to withdraw it opposition proceeding filed before Trade Mark Registry against the plaintiffs application for registration of trademark NEELKANTH SWITCHGEARS bearing nos. 1967732 in class 35; 1967733 in class 09 and 1967734 in class 11.*

*(vi) That the defendants confirm that no finished or*



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*unfinished materials bearing the impugned trademarks/labels are presently lying in the possession of the defendants.*

*(vii) That the defendants agree to suffer decree in terms of the present settlement and the prayer contained in Para 29(a)(i), (ii) and (iii) of the plaint and the plaintiff, in the circumstances, agrees not to press for costs and damages.*

*(viii) That as per the web-site of Trade Marks Registry, the Defendant No. 5 by filing letter on 02 February, 2016 before the Trade Marks Registry, Ahmedabad has already withdrawn Application No. 210490 for the mark "K.C.P MONITAR" in Class 09 and no goods thereunder at present are available in the market.*

*(ix) That the defendants shall abide by the terms of present settlement. In case of breach of any of the terms of this undertaking, the Plaintiff shall have the liberty to initiate appropriate legal action against the defendants to safeguard its interests and in that circumstances the defendants shall be liable to pay punitive and exemplary damages jointly and severally.*

*(x) That the above-mentioned compromise terms shall bind the parties, their directors/ partners/ proprietor/ representatives, assigns and all other persons claiming through them as the case may be.*

*(xi) In view of the above admissions and undertakings by the defendants, the plaintiff is not pressing any damages, rendition of accounts or costs. ... ...*"

2. The present application is duly supported by affidavits of the authorized representatives of the plaintiff and the defendant nos.1 to 4.



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3. Learned counsels 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 6(i) to 6(xii)* of the present application.

4. This Court has perused the terms of settlement as recorded *inter-se* the plaintiff and the defendant nos.1 to 4 and finds them to be lawful.

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

**CS(COMM) 541/2018**

**(*Qua plaintiff and the defendant no.1 to 4*)**

6. Learned counsel for the plaintiff, in view of the settlement entered *inter-se* the plaintiff and the defendant nos.1 to 4, 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 *6(i) to 6(xii)* of the application being I.A.16377/2025.

7. Accordingly, the present suit is decreed in terms of the settlement as recorded in para *6(i) to 6(xii)* of the application being I.A.16377/2025, which are reproduced hereinabove.

8. Needless to mention that the plaintiff and the defendant nos.1 to 4 shall remain bound by the terms of settlement as recorded in *6(i) to 6(xii)* of the application being I.A. 16377/2025.

9. The Registry is directed to draw up a Decree sheet *qua* plaintiff and the respondent no.1 to 4 accordingly.

10. Needless to mention, the aforesaid terms as mentioned in para *6(i) to 6(xii)* of the application being I.A. 16377/2025, shall form part of the decree sheet.



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**(*Qua plaintiff and the defendant no.5*)**

11. Learned counsel for the plaintiff submits that this Court, *vide* order dated 02.05.2016, had closed the right of the defendant no.5 to file the written statement and accordingly, the defendant no.5 was proceeded *ex-parte* thus, in view thereof, a decree *qua* defendant no.5 may also be passed.

12. Learned counsel for the plaintiff has then handed over a copy of the letter/ status of the trademark application being no.2104590 for the trademark 'K.C.P MONITAR' in *Class 9* filed by the defendant no.5, which as per him, since has already been withdrawn.

13. A copy of the said letter/ status of the aforesaid application is taken on record.

14. Upon oral request by learned counsel for the plaintiff as also exercising powers conferred under Order VIII rule 10, CPC, this Court is of the view that since the right of the defendant no.5 to file the written statement was closed and the defendant no.5 was proceeded *ex-parte vide* order dated 02.05.2016 i.e. almost *nine* years back coupled with the fact that there has been no representation on behalf of the defendant no.5 ever since, as also since the trademark application being no.2104590 for the trademark 'K.C.P MONITAR' in *Class 9* has been withdrawn by the defendant no.5, it appears that the said defendant no.5 is not willing to contest the present matter, a decree in favour of the plaintiff and against the defendant no.5 can be passed.

15. More so, interestingly, since there is no rebuttal by the said defendant no.5 to the pleadings and/ or the documents filed alongwith by the plaintiff before this Court, they are deemed to be admitted by the said



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defendant no.5 for all purposes. On merits also, there is, thus, no plausible defence raised and/ or which can be raised by the said defendant no.5.

16. Accordingly, the defendant no.5 its partners, agents, representatives, distributors, assigns, heirs, successors, stockists and all others acting for and on their behalf are restrained from using, selling, soliciting, exporting, displaying, advertising by visual, audio, print mode or by any other mode or manner or dealing in or using the impugned trademark/ label/ trade name MONTEIL LABEL, K.C.P. MONITAR and trade name NEELKANTH SWITCH GEARS or any other trademark/ label/ trade name identical with and/ or deceptively similar to the plaintiff's said trademark/ label in relation to their impugned goods and business of electrical and electronic apparatus and instruments including wire and cables accessories in any manner whatsoever.

17. The Registry is directed to draw up Decree Sheet *qua* the plaintiff and the defendant no.5 accordingly.

18. Needless to mention, the present order shall form part of the decree sheet.

19. Accordingly, the present suit and the pending application(s), if any, stand disposed of.

20. The date already fixed i.e. 29.07.2025 stands cancelled

**SAURABH BANERJEE, J**

**JULY 14, 2025/NA**



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