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

+ **CS(COMM) 1085/2024**

MANKIND PHARMA LIMITED

.....Plaintiff

Through: Mr. Shashwat Rakshit & Mr. Raghu
Vinayak Sinha, Advs.

versus

KINDMANS LABORATORIES LIMITED

.....Defendant

Through: Mr. Rohan Swarup and Mr. Sanyam
Suri, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **07.05.2025**

I.A. 11530/2025 (Order XXIII Rule 3)

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, seeking a consent decree based on the terms of settlement as mentioned in *paragraph 2* of the present application, which is reproduced as under:

"a. *The Defendant acknowledges that the Plaintiff is the sole and exclusive proprietor of the trade marks "MANKIND" / "KIND" / "KINDMAN" and other "KIND" formative trade marks;*

b. *The Defendant agrees and undertakes that they will not use the trade mark/ trade name / corporate name "KINDMAN" / "KINDMAN'S" / "KINDMANS LABORATORIES LIMITED" / , or any other trade mark / trade name as may be identical to or deceptively similar with the Plaintiffs trade marks "MANKIND", "KIND", "KINDMAN" and/or "KIND" formative trade marks;*

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- c. The Defendant agrees and undertakes that the Defendant is closing the company within 30 days from the date of the present settlement application;
- d. The Defendant agrees to apply for withdrawal of the trade mark application bearing no. 5375124 for “” in Class 35 and/ or any other trade mark application/registration which is identical or deceptively similar to the Plaintiff’s trade marks “KINDMAN”, “MANKIND”, “KIND” and/or “KIND” formative trade marks within 15 days from the date of the present settlement application and further undertakes that they will not file any such trade mark application(s) in the future;
- e. The Defendant undertakes to apply for the transfer of the domain name www.kindmans.com to the Plaintiff within 15 days from the date of the present settlement application;
- f. The Defendant undertakes to takedown its listings under the trade mark / trade name “KINDMAN”/ “KINDMAN’S”/ “” and remove all references of the trade mark / trade name “KINDMAN”/ “KINDMAN’S” / “” from its social media pages, website and other third party websites of its proprietor, partners or directors, as the case may be, its principal officers, distributors, licensees and agents, and all others acting for and on behalf of the Defendant within 15 days from the date of the present settlement application;
- g. In view of the above terms and conditions, the present suit may be decreed in terms of the prayer clauses (a), (b), (c), (d) and (e) of the Plaint; and
- h. That subject to the continued satisfaction of the terms in the present application and conditions agreed and undertaken by the Defendant, the Plaintiff agrees to not press for the reliefs of damages, rendition of accounts and cost incurred in the present proceedings.”

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

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 *paragraph 2* of the present application.

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. The learned counsel appearing for the plaintiff, in view of the settlement entered *inter-se* the plaintiff and the defendant, 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 *paragraph 2* of the application bearing no.I.A.11530/2025

7. Accordingly, the present suit is decreed in terms of the settlement as recorded in *paragraph 2* of the application bearing no. I.A.11530/2025.

8. Needless to mention that the plaintiff and the defendant shall remain bound by the terms of settlement as recorded in *paragraph 2* of the application bearing no. I.A. 11530/2025.

9. 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

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plaintiff is deemed 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.

13. Needless to mention, the aforesaid terms as mentioned in *paragraph* 2 of the application bearing no. I.A. 11530/2025, shall form a part of the decree sheet.

14. Accordingly, in view of above, the present suit stands disposed of.

15. The date already fixed stands cancelled.

SAURABH BANERJEE, J.

MAY 7, 2025/R

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