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

+ CS(COMM) 1103/2024, I.A. 47780/2024-Exp from pre-institution mediation, I.A. 47781/2024-Stay

LABORATE PHARMACEUTICALS PRIVATE LIMITED

.....Plaintiff

Through: Mr. Rohit Banerjee, Adv. (through VC)

versus

MMC HEALTHCARE LIMITED

.....Defendant

Through: Mr. K. Krishna Kumar and Mr. Nayan Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **08.05.2025**

I.A. 11719/2025-Under Order XXIII 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 plaintiff and the defendant seeking a consent decree based on the terms of settlement as mentioned in paragraph 2 of the present application, which are reproduced as under:-

“(i) The Defendant admits and acknowledges that Plaintiff is the first owner of the copyright and acknowledges the sole, exclusive, absolute, proprietary, statutory right of the Plaintiff in the copyright that is outer packaging/trade dress of the Plaintiff s Product which is reproduced herein below

**PLAINTIFF'S OUTER
PACKAGING/TRADE DRESS**

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(ii) The Defendant has hereby agreed to give up the impugned packaging which is reproduced herein below

**DEFENDANT'S IMPUGNED OUTER
PACKAGING/TRADE DRESS**



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(iii) The Defendant undertakes to use a new outer packaging/trade dress for the same pharmaceutical preparations which is reproduced herein below

DEFENDANT'S NEW OUTER PACKAGING/TRADE DRESS



(iv) The Defendant undertakes that it shall henceforth not use, directly and/or indirectly, the impugned packaging or any other packaging having the same and/or similar get up, colour combination, replacement of sea shell etc. for manufacturing, marketing,

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distributing, selling (online/offline/directly and /or indirectly), offering for sale or advertising of the impugned pharmaceutical preparations or any other medical preparations.

(v) The Defendant undertakes that it shall not use, directly and/or indirectly any packaging which is identical/similar or cognate/ allied to the packaging/trade dress of the Plaintiff's product for manufacturing, marketing, distributing, selling (online/offline/directly and /or indirectly), offering for sale or advertising of the impugned pharmaceutical preparations or any other medical preparations.

(vi) The Defendant declares that it has not stock of impugned packaging/trade dress, printed packaging material, etc. and any other infringing copies or media which are identical/ similar or cognate/ allied to the outer packaging/trade dress of the Plaintiff's Product.

(vii) The Defendant further undertakes not to infringe upon and/or create any hindrance, directly or indirectly in the exercise of the Plaintiff's Copyright.

(viii) The Plaintiffs in view of the aforesaid declarations, undertaking and assurances of the Defendants, forgo the claims for damages and costs of proceedings as stipulated in prayer paragraph nos. 45 (c) to (e) of the plaint in the present suit."

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

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

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settlement entered *inter-se* the plaintiff and the defendant, prays that since the dispute *inter-se* them have been settled, he would not press for the other applications.

7. Learned counsel for the plaintiff prays that since the disputes between the parties have been settled amicably in terms of the aforesaid settlement as mentioned in paragraph 2 of I.A.11719/2025 hence the court fees paid by the plaintiff be refunded in terms of *Section 16* of The Court Fees Act, 1870.

8. 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 plaintiff is deemed justifiable.

9. 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.

10. Accordingly, in view of the above the present suit is decreed in terms of the settlement *inter-se* the parties finding mention in paragraph 2 of the application bearing no. I.A.11719/2025.

11. The plaintiff and the defendant shall remain bound by the terms of settlement *inter-se* them, finding mention in paragraph 2 of the application bearing no. I.A.11719/2025.

12. Registry is directed to draw up a decree sheet accordingly.

13. Needless to mention, the aforesaid settlement terms as mentioned in paragraph 2 of the application bearing no. I.A.11719/2025, shall form a part of the decree sheet.

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

SAURABH BANERJEE, J

MAY 8, 2025/bh

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