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

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Date of decision: 22.02.2022

+ CS(COMM) 639/2021

SUN PHARMACEUTICAL INDUSTRIES LTD Plaintiff

Through Mr. Sachin Gupta, Ms. Jasleen Kaur
and Ms. Swati Meena, Advs.

versus

OLCARE LABORATORIES PVT LTD Defendant

Through Mr. Amar Dave, Mr. Prakash Gogia,
Ms. Jaikriti S. Jadeja and Ms. Prapti
Allagh, Advs.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

I.A. 2939/2022 (u/O. XXIII Rule 3 r/w S. 151 CPC)

1. The present application has been jointly filed by plaintiff and defendant praying for issuance of decree in terms of prayer clause 28 (a), (b) & (c) of the present suit and for refund of entire Court fees.
2. In the present suit filed by the plaintiff seeking permanent injunction restraining infringement of copyright, trade mark, passing off, unfair competition, delivery up, damages and/or rendering of accounts of profits, etc.

against the defendant, parties have arrived at an amicable settlement out of court in terms enumerated in Paragraph 2 of the present application.

3. Learned counsel for the plaintiff submits that in terms of settlement, the present suit be decreed against defendant.

4. Upon hearing learned counsel for the parties and upon perusal of the application and in specific contents of Para-2 thereof, this Court finds that the settlement reached between the parties is valid and lawful.

5. Accordingly, the present application filed by the plaintiff and defendant is allowed.

6. Needless to say, parties shall be bound by the terms of settlement reached between them.

7. The application stands disposed of accordingly.

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8. In view of order passed in IA No. 2939/2022 (u/O XXIII Rule 3 r/w Section 151 CPC), the present suit is decreed qua defendant in terms of Paragraph No.2 thereof, which shall form part of decree sheet. Decree sheet be accordingly drawn.

9. Learned counsel also submits that since the subject matter of the suit stands amicably resolved, therefore, the entire court fees be refunded.

Reliance is placed upon decision of Hon'ble Supreme Court in *The HC of Judicature at Madras, Rep. by its Registrar General v. MC. Subramaniam & Ors.* (2021) 3 SCC 560.

10. The relevant observations of the Hon'ble Supreme Court in *The HC of Judicature at Madras, Rep. by its Registrar General* (Supra) are as under:-

“23. We find ourselves in agreement with the approach taken by the High Courts in the decisions stated supra. The purpose of Section 69-A is to reward parties who have chosen to withdraw their litigations in favour of more conciliatory dispute settlement mechanisms, thus saving the time and resources of the Court, by enabling them to claim refund of the court fees deposited by them. Such refund of court fee, though it may not be connected to the substance of the dispute between the parties, is certainly an ancillary economic incentive for pushing them towards exploring alternative methods of dispute settlement. As the Karnataka High Court has rightly observed in *Kamalamma*, the parties who have agreed to settle their disputes without requiring judicial intervention under Section 89 CPC are even more deserving of this benefit. This is because by choosing to resolve their claims themselves, they have saved the State of the logistical hassle of arranging for a third-party institution to settle the dispute. Though arbitration and mediation are certainly salutary dispute resolution mechanisms, we also find that the importance of private amicable negotiation between the parties cannot be understated. In our view, there is no justifiable reason why Section 69-A should only incentivise the methods of out-of-court settlement stated in

Section 89 CPC and afford step-brotherly treatment to other methods availed of by the parties.

24. Admittedly, there may be situations wherein the parties have after the course of a long-drawn trial, or multiple frivolous litigations, approached the Court seeking refund of court fees in the guise of having settled their disputes. In such cases, the Court may, having regard to the previous conduct of the parties and the principles of equity, refuse to grant relief under the relevant rules pertaining to court fees. However, we do not find the present case as being of such nature.

25. Thus, even though a strict construction of the terms of Section 89 CPC and Section 69-A of the 1955 Act may not encompass such private negotiations and settlements between the parties, we emphasise that the participants in such settlements will be entitled to the same benefits as those who have been referred to explore alternate dispute settlement methods under Section 89 CPC. Indeed, we find it puzzling that the petitioner should be so vehemently opposed to granting such benefit. Though the Registry/State Government will be losing a one-time court fee in the short term, they will be saved the expense and opportunity cost of managing an endless cycle of litigation in the long term. It is therefore in their own interest to allow Respondent 1's claim.

26. Thus, in our view, the High Court was correct in holding that Section 89 CPC and Section 69-A of the 1955 Act be interpreted liberally. In view of this broad purposive construction, we affirm the High Court's conclusion, and hold that Section 89 CPC shall cover, and the benefit of Section 69-A of the 1955 Act shall also extend to all methods of out-of-court dispute settlement between parties that the Court subsequently finds to have been legally arrived at. This would, thus, cover the present controversy, wherein a

private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court. In such a case as well, the appellant i.e. Respondent 1 herein would be entitled to refund of court fee.”

11. Concurring with afore-noted decision of Hon’ble Supreme Court in ***The HC of Judicature at Madras, Rep. by its Registrar General (Supra)***, the plaintiff is entitled to refund of entire court fees. Registry is directed to issue necessary certificate/ authorization in favour of the plaintiff to seek refund before the appropriate authorities.
12. With aforesaid directions, the present suit stand decreed accordingly. Pending application, if any, is disposed of as infructuous.
13. The dates already fixed, i.e. 02.03.2022 and 21.03.2022, stand cancelled.

SURESH KUMAR KAIT, J
FEBRUARY 22, 2022/rk