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

Date of decision: 09.09.2021

\+ CS(COMM) 330/2019

AMIT TALWAR AND ORS. ..... Plaintiffs

Through: Mrs.Bindra Rana, Ms.Priya Adlakha & Ms.Tanvi Bhatnagar, Advs.

Versus

VIVEK TALWAR AND ORS. ..... Defendants

Through: Mr.Mayank Rustagi, Adv. for Defendant Nos.1 & 2.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

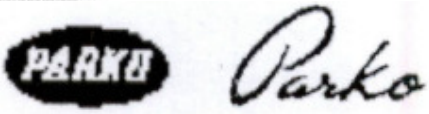
J U D G M E N T (ORAL)

The hearing has been conducted through video conferencing.

I.A. 11483/2021 (u/O XXIII Rule 3 CPC)

1. In a suit for permanent injunction restraining the defendants from infringing the registered trademark/copyright PARKO on packaging/label of goods, passing off, damages and unfair trade practice, the present application has been jointly filed by plaintiffs as well as defendant no.1 for issuance of decree in terms of Para no. 6 of the application, as settlement has been arrived at between the parties. Plaintiffs have also prayed for withdrawal of the present suit against defendant nos.2 to 10. They have

further prayed that goods seized by the Local Commissioner at the premises of M/S Malik Traders, 1553 Gurudwara Road, Kotla Mubarakpur, New Delhi and handed over to Mr. Amar Nath Chug on superdari, be released.

2. As per the plaintiffs, plaintiff no.1 along with his father Sh. Charanjit Talwar and Ram Gopal Khanna started business for manufacturing and trading in sanitary goods and fittings selling and built-up a partnership firm namely *"Parkash Brassware Industries"* and they started using a unique word PARKO for label/packaging of their goods. After the demise of parents of Plaintiff no.2 in 1997 , he became the sole proprietor of the Prakash Brassware Industries and has individually applied for registration of the trademark PARKO including trademarks PARKO & PARKOVIC. From 1986 onwards, he is the only owner of the copyright in the original artistic work of logos  and **PARKO**. It is further stated that the plaintiff No.3 has also been authorised by plaintiff No.2 to use the trademark PARKO. On 02.04.2010 plaintiff No.2 entered into a Family Settlement with his sons and wife in which it was mutually decided that defendant No.l will resign from the Directorship of plaintiff No.3. Plaintiff No.2 and defendant No.l entered into an Agreement

on 03.07.2010 wherein plaintiff No.2 is the first and prior adopter of the trademark PARKO for bathroom fitting and cognate and allied goods. The proprietorship of the plaintiff No.2 on the trademark PARKO was duly acknowledged and it was also agreed that defendant No.l will not use the trademark PARKO but he will be allowed to use the word PARKO in conjunction with VIC i.e. PARKVIC or any other word. However, despite signing the agreement dated 03.07.2010, defendants applied for identical trade mark in the year 2010 and further disputes arose between the parties.

3. Vide order dated 12.07.2019, matter was referred to Delhi High Court Mediation & Conciliation Centre for exploring possibility of settlement, however, mediation failed.

4. Today, learned counsel for both the parties submit that plaintiff no.1 and 2 and defendant no.1 i.e. Shri Vivek Talwar, belong to the same family and they have agreed to amicably settle and compromise the present suit in accordance with the terms as stated in Paragraph no. 6 of the present application as well as in an additional clause mentioned in an email which is annexed along with the application. Contents of additional clause are incorporated in Paragraph no. 6 as Sub-Para V and the same read as under:

> *"6. V. That the Defendant No. 1 by himself, his partners, officers, employees, servants, agents, representatives,*

> *dealers, stockiest, distributors, retailers, successors, or any one claiming under him directly or indirectly shall be allowed to use the trademark* ***PARKOVIC*** *only in straight font as agreed in the trade mark Agreement in terms of the order dated 26.08.2019 passed in CS(Comm.) 330/2019 by the Hon'ble Delhi High Court and the Plaintiffs shall have no objection whatsoever to such user."*

5. Learned counsel for the parties also undertake to abide by the terms of the settlement as narrated in the present application as well as in the additional clause.

6. Learned counsel for plaintiffs pray that the present suit be decreed in aforesaid terms qua defendant no.1 and seeks permission of this Court to withdraw the present suit qua defendant nos.2 to 10.

7. Accordingly, the present joint application filed by the parties is allowed. The suit is decreed in favour of the plaintiffs and against defendant no.1 in terms mentioned in Paragraph No.6 of this application along with newly incorporated sub para 6 (V), which shall form part of decree sheet. Decree sheet be accordingly drawn.

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8. In view of order passed in I.A. 11483/2021 (u/O XXIII Rule 3 CPC) the present suit is decreed qua defendant no.1 in view of the terms mentioned in Paragraph No.6 of this application along with newly

incorporated sub para 6 (V), which shall form part of decree sheet. Decree sheet be accordingly drawn.

9. Counsel for the plaintiffs seeks permission to withdraw the present suit qua defendant nos.2 to 10.

10. Permission is granted.

11. Pending application, if any, stands disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 09, 2021/ab