

(2021) 07 DEL CK 0107

In the Delhi High Court

Case No : Civil Suit (COMM) No. 520 Of 2020

Calvin Klein Trademark Trust

APPELLANT

Vs

Ektarfa Garments Privatelimited, & Ors

RESPONDENT

Date of Decision : 15-07-2021

Acts Referred:

Court Fees Act, 1870 — Section 16
Code Of Civil Procedure, 1908 — Section 89

Citation : (2021) 07 DEL CK 0107

Hon'ble Judges : Suresh Kumar Kait, J

Bench : Single Bench

Advocate : Saif Khan, Shobhit Agrawal, Deepank Singhal, Ashish Mohan, Samarth Chowdhary

Final Decision : Disposed Of

Judgement

Suresh Kumar Kait, J

The hearing has been conducted through video conferencing.

CS(COMM) 520/2020 & I.A. 11041/2020 (u/O 39 R 1 & 2 CPC) & I.A. 11042/2020 (u/O XI R 1(6) as amended under the Commercial

Courts Act, 2015 r/w Chapter IV of The Delhi High Court (Original Side) Rules r/w Section 151 of The Code Of Civil Procedure, 1908

1. The present suit for permanent injunction, infringement of trademark and copyright, passing off, tarnishment, unfair competition, delivery up,

rendition of accounts, damages, etc. has been filed by the plaintiff seeking permanent injunction restraining the defendants, their partners/

proprietors/directors, officers, servants, agents, distributors, stockists and representatives from manufacturing, selling and/or offering for sale,

advertising, warehousing, importing, directly or indirectly dealing, in any manner

whether offline or online, in any goods bearing plaintiff's registered trademarks "Calvin Klein", CK (word/logo) .

2. Further, prayers are also made to restrain defendants to misrepresent the quality/ origin of their goods and from taking unfair advantage of the plaintiff's reputation and goodwill in the said trademarks or any similar trademark thereby causing dilution and tarnishment of the plaintiff's

trademarks which may infringe the copyright of the plaintiff in the artistic works that comprise the trademarks of the plaintiff as well as to direct the

defendants for delivery up of all finished and unfinished materials, products and accessories, packaging, labels, dies, blocks, stationery and other

materials bearing any of the plaintiff's trademarks or bearing any other mark(s)/logo/device similar thereto, for the purpose of erasure/destruction.

In addition, damages to the tune of Rs. 2,00,01,000/- are also claimed against the defendants on account of loss of sales, reputation and goodwill of the plaintiff's trademarks caused by the activities of the defendants.

3. On 08.12.2020, Director of defendant No-1-company appeared before the Court and showed his willingness to settle the dispute with plaintiff.

4. Vide order dated 09.02.2021, the matter was referred to Delhi High Court Mediation and Conciliation Centre for exploring possibility of settlement.

5. Learned counsel for the parties inform that subject matter of the suit has been amicably resolved in terms of Settlement Agreement dated

15.04.2021 passed by Delhi High Court Mediation and Conciliation Centre, wherein terms of settlement have been incorporated in paragraph No. 6(i)

to (xiii) and parties shall abide by the terms thereof.

6. Learned counsel for plaintiff prays that the present suit be decreed in aforesaid terms and also under the provisions of Section 16 of the Court Fees

Act, 1870 read with Section 89 of CPC, the court fee be refunded to the plaintiff.

7. The afore-noted narration of the present case shows that after reference of the present case to Delhi High Court Mediation and Conciliation Centre

vide order dated 09.02.2021, the parties have successfully mediated and settled their dispute. The suit stands accordingly decreed in terms mentioned

in paragraph No. 6(i) to (xiii) of the Settlement Agreement dated 15.04.2021. Decree sheet be accordingly drawn.

8. Since the matter has been amicably settled through Delhi High Court Mediation and Conciliation Centre, conditions spelt out under Section 16 of

Court Fees Act, 1870 read with Section 89 of CPC are satisfied and so, the plaintiff is entitled to a certificate from this Court authorizing him to seek refund of the entire court fees from the authorities concerned in respect of present suit.

9. The suit and pending applications are accordingly disposed of with aforesaid directions.