

(2007) 10 DEL CK 0025

In the Delhi High Court

Case No : IA No. 12136 of 2007 and CS (OS) 494 of 2005

Eurocos Cosmetics Gmbh

APPELLANT

Vs

Mr. Kewal Kishore Birwani and Another

RESPONDENT

Date of Decision : 30-10-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 3, 151

Citation : (2007) 10 DEL CK 0025

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Kripa Pandit, for the Appellant; P. Banerjee, for the Respondent

Judgement

Badar Durrez Ahmed, J.—This is a joint application filed on behalf of the plaintiff and the defendants under Order 23 Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 for recording the compromise arrived at between the parties and for decreeing the suit in terms thereof. The plaintiff had instituted the suit seeking injunction against the defendant from infringing and misusing its registered trademarks "HUGO", "HUGO BOSS", "BOSS" and "THE BOSS" and from passing off their goods as the goods of the plaintiff.

2. During the pendency of the suit, the parties have arrived at a settlement / compromise. The defendants have acknowledged the proprietorship of the plaintiff over the aforesaid trademarks. They have also agreed not to use the same or to pass off any of their goods as that of the plaintiff's. They have also agreed not to make any application before the Trademark Registry in respect of the said trademarks. Other terms and conditions have been set out in paragraph 5 of the application. The defendants have also agreed to pay a sum of Rs 25,000/- to the plaintiff as costs of the present suit. The plaintiff has agreed not to press for rendition of accounts and / or other reliefs prayed in the plaint.

3. The application is signed by Mrs Rachna Virmani, who is the proprietor of K. V. International on behalf of the defendant No. 1 and by Mrs Kavita Arora, who is

the proprietor of defendant No. 2, on behalf of the defendant No. 2. The learned Counsel for the parties state that the defendant No. 2 is the sister concern of K. V. International. On behalf of the plaintiff the application has been signed by Mr Ralf Gobbers and Dr. Jorn R. Huble, who are the authorized signatories of the plaintiff company. The same is also supported by their affidavits as well as the affidavits of Mrs Kavita Arora and Mrs Rachna Virmani.

4. I have examined the terms of the compromise arrived at between the parties and I am satisfied that the same is lawful. Accordingly, the compromise is taken on record. The application is marked as Ext. C-1. The suit is decreed in terms of prayer A of the plaint. The rest of the prayers, apart from prayer D, are given up by the plaintiff. Insofar as the prayer D is concerned, it has been agreed that the defendant shall pay costs of Rs 25,000/- to the plaintiff. The suit stands decreed accordingly. This application (Ext. C-1) shall form part of the decree. The formal decree be drawn up.

This application, the suit and other pending applications stand disposed of.