

(2008) 02 DEL CK 0077
In the Delhi High Court
Case No : CS (OS) 1706 of 2007

Hero Honda Motors Limited	Vs	APPELLANT
Mr Anil Kumar Garg and Another		RESPONDENT

Date of Decision : 12-02-2008

Acts Referred:

Citation : (2008) 36 PTC 217

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Sagar Chandra and Abhilasha Kumbhat, for the Appellant; Anil Kumar Garg, for the Respondent

Judgement

Badar Durrez Ahmed, J.

IA No. 1858/2008 (Under Order 23 Rule 3 Read with Section 151 of CPC)

1. The plaintiff had filed this suit for alleged infringement of its trade mark, copyright as well as for passing off and for other reliefs. During the pendency of the suit, the plaintiff and the defendants have arrived at an amicable settlement. The terms of the settlement are set out in this application. Essentially, the defendants have acknowledged the plaintiffs to be the proprietors of the trade marks mentioned in paragraph 8 of the plaint which includes the trade mark "HERO HONDA" and the HERO HONDA stylised logo under class 12 vide Registration No. 419115 and 513474 respectively.

2. The defendants have also acknowledged the plaintiffs to be the owners of the copyrights in the logo as well as in the packaging of the HERO HONDA spare parts referred to in paragraph 9 of the plaint. The defendants have undertaken not to manufacture, sell, advertise, directly or indirectly deal in any product whatsoever bearing any one or more of the plaintiff's trade marks as described in paragraph 8 of the plaint as also utilising any logo or packaging which would be a colourable imitation or substantial reproduction of the plaintiff's logo and packaging as described in paragraph 9 of the plaint. The defendants have also

undertaken not to do any other act amounting to passing off the defendants goods as those of the plaintiffs. The defendants have undertaken to pay a sum of Rs 75,000/- as part litigation costs incurred by the plaintiff. The said payment has been made by the defendants, the receipt whereof is acknowledged by the learned Counsel for the plaintiff.

3. The defendant No. 1 is present in person. The defendant No. 2 is the sole proprietorship concern of the defendant No. 1. This application has been signed by Ms Purnima Dogra who is the constituted attorney of the plaintiff and by Mr Anil Kumar Garg (Defendant No. 1) for himself as also on behalf of his sole proprietorship concern (Defendant No. 2). The respective counsel for the parties have also signed this application. The same be marked as Exhibit C-1. Ms Purnima Dogra and Mr Anil Kumar Garg have also filed affidavits in support of this application.

4. I have considered the submissions made by the counsel for the parties as well as those made by the defendant No. 1. The terms of the settlement arrived at between the parties have also been examined by me and I am satisfied that the same are lawful. The settlement is taken on record and the suit is decreed in terms of prayers contained in paragraph 20 (a) (b) and (c) of the plaint incorporating the terms of the present settlement, as indicated in this application, as part of the decree. The prayers contained in paragraph 20 (d), (e) and (f) are given up by the plaintiff. The formal decree be drawn up. Exhibit C-1 shall form part of the said decree.

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