

(2006) 04 DEL CK 0121

In the Delhi High Court

Case No : IA No. 2532 of 2006 in CS (OS) 221 of 2004

Samsung Electronics Company Ltd. and Another

APPELLANT

Vs

Bharat Bhushan Ahuja and Others

RESPONDENT

Date of Decision : 05-04-2006

Acts Referred:

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

Citation : (2006) 04 DEL CK 0121

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Munish Mehra, for the Appellant; Party-in-person Defendant No. 1, for the Respondent

Final Decision : Disposed Off

Judgement

Badar Durrez Ahmed, J.—This is an application under Order 23 Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 which has been jointly filed by the plaintiffs and the defendants. The defendant No. 1, Mr. Bharat Bhushan Ahuja, has been authorised by the other defendants who are his brothers and sister to enter into this compromise. They have also given their affidavits to this effect. The amended memo of parties has also been filed and the same is taken on record. The defendants have acknowledged that the plaintiffs are the owners of the trademark "SAMSUNG" in respect of, inter alia, electronic and electrical goods. The defendants have also acknowledged the plaintiffs to be the proprietor of the registered trademark "SAMSUNG" with and without the accompanying device mark under Nos. 370918, 368564, 368562, 368563 and 591306 in classes 7, 9, 11, 14 and 16. The defendants have also acknowledged that they had infringed the trademark and copyrights of the plaintiffs and had passed off their goods as those of the plaintiffs" and have apologised for the same. The defendants have given undertakings in the application which are taken on record. The defendants have also paid a sum of Rs. 30,000/- to the plaintiff No. 2 to cover up the legal costs as indicated in paragraph 5 of the application.

2. In view of the undertakings recorded in the application, the plaintiffs have agreed to forgo their claims for delivery up, damages and rendition of accounts. The parties have, Therefore, prayed that this court accept the undertakings given by the defendants and record the memo of compromise between the parties and pass a decree in favor of the plaintiffs in terms of paragraph 36 (i), (ii) and (iii) of the plaint and incorporate the terms of the settlement as part of the decree.

3. I have examined the terms of settlement / compromise which have been reduced to writing in the shape of this application which is marked as Exhibit-C-1. The application is signed by Mr. Bharat Bhushan Ahuja, the defendant No. 1 on his own behalf as well as on behalf of the other defendants. Mr. Sunil Kumar Goel, the constituted Attorney of the plaintiff No. 2 has also signed this application. The application is also signed by the respective counsel for the parties and is supported by the affidavits of the said Mr Sunil Kumar Goel as well as Mr Bharat Bhushan Ahuja and the other defendants 2 to 5. I have examined the application and I find that the terms of the settlement are lawful and the same are taken on record. A decree in terms of paragraph 36 (i), (ii) and (iii) of the plaint is passed. This application [Exhibit-C-1] shall form part of the decree. The rest of the claims have been given up by the plaintiffs. The suit as well as all the pending applications are disposed of.