

(2023) 08 DEL CK 0244

In the Delhi High Court

Case No : Civil Suit (COMM) No. 564 Of 2021, I.A. No. 14641 Of 2021, 5354, 12702 Of 2023

Sulphur Mills Limited

APPELLANT

Vs

Sulphur Crop Care Pvt. Ltd. & Ors

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Code of Civil Procedure, 1908 — Order 23 Rule 3

Citation : (2023) 08 DEL CK 0244

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Hemant Singh, Hari Subramanimam, Mamta Rani Jha, Siddhant Sharma, Sanuj Das, Abhay Tandon, Akshay Modi

Judgement

C. Hari Shankar, J

I.A. 12702/2023 (Under Order XXIII Rule 3 of the CPC)

1. The dispute between the parties stands settled and a joint application under Order XXIII Rule 3 of the Code of Civil Procedure 1908 (CPC) has been filed.

2. Mr. Hemant Singh represents the plaintiff and Mr. Akshay Modi represents Defendant 3, vis-à-vis whom alone the dispute survives.

3. The terms of settlement read thus:

"i. The term "PRODUCT" shall mean Sulphur 90% WDG Product manufactured both under the brand "Cropwin" and in bulk, manufactured and sold by Defendant No. 3;

ii. The Defendant No. 3 consents and confirms the proprietary right vested with the Plaintiff over the Plaintiff's patented agricultural composition which is the subject matter of Indian Patent No. 282429 and herein agree and accept the rights of the Plaintiff in the suit Patent and acknowledge the validity thereof;

iii. The Defendant No. 3 undertakes that it will not directly or indirectly challenge or assist any third party to challenge the validity of Indian Patent No. 282429 during its term;

iv. The Defendant No. 3 either by themselves or through their partners, directors, group companies, associates, divisions, assigns in business, licensees, franchisees, agents, officers, servants, distributors and • dealers, undertake not to manufacture, sell, distribute, advertise, offer to sell, import, export, directly or indirectly deal either in Brand or Bulk in Plaintiff's patented agricultural composition which is the subject matter of Indian Patent No. 282429 or any other agricultural composition as may amount to infringement of Indian Patent No. 282429;

v. The Defendant No. 3 states and confirms that until the date of filing of the present suit, it has only manufactured and or sold a total quantity of around 60MT of the PRODUCT under the abovementioned brand or in bulk;

vi. In lieu of past sales as mentioned in paragraph 3 (v), the Defendant No.3 undertakes to pay the Plaintiff a royalty to the tune of Rs. 15/kg and settle the matter amicably;

vii. As one-time settlement, the Plaintiff agrees to a lump sum amount of INR 10, 00, 000/- which shall be transferred to the Plaintiff's account within 7 days of the execution of this consent term towards the past sales of the product by Defendant No. 3. The Plaintiff, upon fulfilment of the foregoing obligation of the Defendant No. 3, agrees to forego prayer clause 76(ii) to 76(v);

viii. The Parties confirm that pursuant to the consent terms as outlined hereinabove, there shall be no issues outstanding between the Parties and the matter remains settled;

ix. The Parties hereby affirm and acknowledge that they have read all the above-mentioned terms. The Parties further affirm that they understand the meaning of the terms and their effect. The Parties represent that they entered into this settlement freely and voluntarily without any coercion or undue pressure."

4. I have perused the terms of settlement and find them to be lawful and enforceable.

5. As such, nothing survives for adjudication in the present suit.

6. The suit stands decreed in the aforesaid terms of settlement, by which the parties shall remain bound.

7. The plaintiff shall be entitled to refund of 50% of the court fee deposited by it.

8. Let a decree sheet be drawn up by the Registry accordingly.