
(2005) 12 DEL CK 0174
In the Delhi High Court
Case No : CS (OS) No. 121 of 2004

Systopic laboratories Ltd.

APPELLANT

Vs

Palsons Drugs and Chemical Industries

RESPONDENT

Date of Decision : 06-12-2005

Acts Referred:

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

Citation : (2006) 126 DLT 631

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Jyotsna Balakrishnan, for the Appellant; Mohan Vedhan, for the Respondent

Final Decision : Disposed Off

Judgement

Badar Durrez Ahmed, J.

IA No. 9863/2005 in CS(OS) No. 121/2004

1. This is an application under Order 23, Rule 3 read with Section 151 of the Code of Civil Procedure, 1908. By way of this application which has been moved jointly by the plaintiff and the defendant, it is prayed that the agreement and undertaking arrived at between the parties be recorded and that decree be passed in terms of the compromise. It is further prayed that the permanent injunction, as prayed for, in paragraphs 20(a) and 20(b) of the plaint be decreed in favor of the plaintiff and against the defendant. It is also prayed that the plaintiff gives up the reliefs in paragraphs 20(c)(d)(e) and (f).

2. The plaintiff is the proprietor of the trademark GENTOPIC. The defendant was selling products under the trademark GENTOP. However, now the plaintiff and the defendant have settled the matter as indicated in the application in paragraphs 1 to 6. The application be exhibited as Exhibit `C- 1". Essentially, the defendant has acknowledged that the plaintiff is the proprietor of the trademark GENTOPIC and the defendants has undertaken to change its trademark GENTOP to such

trademark which would not bear OP as suffix and agree to carry out such necessary changes as required in the labels, products, pamphlets and literatures etc., w.e.f. 01.04.2006. The other conditions of the compromise are set out in the said application being exhibited `C-1".

3. I am satisfied that the settlement arrived at between the parties is lawful and accordingly, the decree, as prayed for, can be passed. The compromise application being exhibit `C-1" is supported by the affidavit of Mr. P.K.Dutta, the Managing Director of the plaintiff. It is also supported by another affidavit of Mr. Siddhartha Paul, who is the partner in the defendant firm.

4. In view of the aforesaid circumstances, the compromise is taken on record and a decree in terms of paragraphs 20(a) and (b) is passed in favor of the plaintiff and against the defendant. The application being exhibited `C-1" shall be made part of the decree.

5. This is stands disposed of as well as the suit.