

Systopic Laboratories Ltd. Vs. Palsons Drugs and Chemical Industries

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Court : Delhi

Decided On : Dec-06-2005

Reported in : 126(2006)DLT631

Judge : Badar Durrez Ahmed, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 151 - Order 23, Rule 3

Appeal No. : CS(OS) No. 121/2004

Appellant : Systopic Laboratories Ltd.

Respondent : Palsons Drugs and Chemical Industries

Advocate for Def. : Mohan Vedhan, Adv.

Advocate for Pet/Ap. : Jyotsna Balakrishnan, Adv

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 defendant 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.