

\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: 31.08.2021

+ CS(COMM) 308/2020 & I.A. 6632/2020

TATA SONS PRIVATE LIMITED Plaintiff
Through Ms. Nancy Roy, Adv.

Versus

SUNIL KESHAVJI TATARIA & ANR. Defendants
Through Mr. Achutan Sree Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (ORAL)

1. The present suit has been filed by the plaintiff seeking permanent injunction restraining infringement of registered trade mark, passing off, dilution and tarnishment of trademarks, damages, rendition of accounts, delivery up in respect of plaintiff's registered trade mark.

2. The defendants are engaged in the manufacture and sale of adult

diapers and underpads which bear the infringing mark / logo



3. In 2020, counsel for plaintiff received information regarding defendants' adult diapers and underpads being sold under the trade mark and



the infringing mark /logo and deputed independent investigator, who conducted investigation and found that defendants were engaged in the business through domain / website www.tatariahygiene.com, which amounted to misappropriation of plaintiff's trade mark "TATA".

4. During pendency of the suit, vide order dated 16.02.2021, the matter was referred to Delhi High Court Mediation and Conciliation Centre for parties to explore possibility of settlement through mediation.

5. Learned counsel for the parties have informed this Court that the subject matter of the suit has been amicably resolved in terms of Settlement Agreement dated 03.08.2021 passed by Delhi High Court Mediation and Conciliation Centre and terms of settlement are enumerated therein.

6. Learned counsel for the plaintiff submits the terms of settlement are incorporated in Para-1(a) to (j) of the aforesaid Settlement Agreement dated 03.08.2021 and the present suit be decreed in terms thereof.

7. Learned counsel appearing on behalf of defendants submit that the defendants undertake to abide by the terms of aforesaid Settlement Agreement dated 03.08.2021.

8. This Court has gone through the contents of the mediated Settlement Agreement dated 03.08.2021 and find it to be valid and lawful. Accordingly, the present suit is decreed in terms of Settlement Agreement dated 03.08.2021, which shall form part of decree. Decree sheet be accordingly drawn.

9. Both the parties shall remain bound by the terms of the Settlement Agreement dated 03.08.2021.

10. At this stage, learned counsel for plaintiff prays for refund of entire court fees under the provisions of Section 16A of the Court Fees Act.

11. A Division Bench of this Court in *Nutan Batra Vs. M/s. Buniyaad Associates 2018 SCC OnLine Del 12916*, while relying upon decision of Hon'ble Supreme Court in *Afcons Infrastructure Limited v. Cherian Varkey Construction Company Private Limited (2010) 8 SCC 24*, had allowed an appeal against the order of refusal of refund of entire court fee in a suit. Further, a Coordinate Bench of this Court in *Munish Kalra Vs. Kiran*

Madan and Others 2019 SCC OnLine Del 8021 taking into account the fact that the dispute stands amicably settled between the parties, had relied upon decisions in ***Afcons Infrastructure Limited (Supra)*** and ***Nutan Batra (Supra)*** and directed refund of the entire court fees.

12. Since the dispute *inter se* parties stand resolved prior to commencing of pleadings, this Court finds that plaintiff is entitled to refund of entire court fees. Registry is directed to issue necessary certificate/ authorization in favour of the plaintiff to seek refund before the appropriate authorities.

13. Pending application stands disposed of being infructuous.

AUGUST 31, 2021/rk

SURESH KUMAR KAIT, J