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

Date of Decision: 12th September, 2022

+ **CS (COMM) 313/2022 and I.A. 7463/2022**

NIKHIL CHAWLA Plaintiff

Through: Mr. Adarsh Ramanujan, Mr. Lzafeer Ahmad and Ms. Skanda Shekhar, Advocates (M: 9582296522).

versus

THE COCA COLA COMPANY Defendant

Through: Mr. Naval Kartia and Mr. Akshay Bhardwaj, Advocates (M: 95601754428).

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. COOK STUDIO and COKE STUDIO are the competing marks in this suit. Both marks are used extensively on internet platforms.
3. The present suit is in the nature of a threat action under Section 142 of the Trademarks Act, 1999 and a suit seeking declaration of non-infringement of the registered trademark COKE STUDIO. The Plaintiff is the proprietor of the firm trading as “The Chawla Group” and is stated to be running a very popular online platform called ‘COOK STUDIO’ engaged in the activity of blogging, production of video films, training, etc., particularly relating to cooking. The Plaintiff has received notices from the Defendant which is the owner of the registered trademark named ‘COKE STUDIO’ calling upon him to desist from using the mark COOK STUDIO for his culinary related blog. The prayers in the suit are as under:-

(a) A decree declaring that the use in the course of trade or otherwise in India, of the mark “Cook Studio”, and/or “



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and/or



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and/or



“”, is not an

infringement of the Registered Indian trademark nos. 1998019 and 2147011 of the Defendant;

(b) A decree declaring that the use in the course of trade or otherwise in India, of the mark “Cook Studio”, and/or “



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and/or



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and/or



“”, is not an

infringement or violation of any rights of the Defendant under common law or statutory law in respect of “Coke Studio”, including under the Copyright Act, 1957;

(c) A decree declaring that the threat by the Defendant to initiate legal proceedings qua the Registered Indian trademark nos. 1998019 and 2147011 of the Defendant, or any rights of the Defendant under common law or statutory law, against the Plaintiff, Plaintiff's employees, officers, servants, agents, distributors, dealers, retailers or any other party dealing with the Plaintiff or acting

on his behalf, for use of the mark “Cook studio”, and/or “the mark “Cook Studio”, and/or “



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and/or



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and/or



”

in the course of trade, is unjustifiable;

(d) A decree for damages to the tune of Rs.1,00,00,000/- for harassment and interference with business, as well as punitive damages as may be ascertained in the present suit;

(e) A decree of permanent injunction restraining the Defendant, its employees, officers, servants, agents and all others acting for and on their behalf, from continuing to threaten legal proceedings qua the Registered Indian trademark nos.

1998019 and 2147011 of the Defendant, or any rights of the Defendant under common law or statutory law, in relation to the use of the mark



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“Cook Studio”, and/or or “ ” and/or



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and/or



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in the course of trade in India, against the Plaintiff, his employees, officers, servants, agents, distributors, dealers, retailers or any other party dealing with the Plaintiff or acting on his behalf;

(f) A decree of permanent injunction restraining the Defendant, its employees, officers, servants, agents

and all others acting for and on their behalf from interfering with the business of the Plaintiff on account of the use of the marks “Cook Studio”, or “



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and/or



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and/or



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, including but not limited to taking coercive steps by writing to any intermediary or social media platforms such as YouTube®, Facebook®, Instagram® to take down the Plaintiff's URLs/pages/posts;

(g) Pass an order as to costs of the instant proceedings, in favour of the Plaintiff; and

(h) Any other reliefs as this Hon'ble court may deem fit.

4. Vide order dated 12th May, 2022, summons were issued in the suit to the Defendant and parties were referred to mediation before the Delhi High Court Mediation and Conciliation Centre for an amicable resolution.

5. Ld. counsel for the parties submit that they have now amicably resolved their disputes as per the Joint memo dated 12th September, 2022 on the following terms and conditions:-

“1. Plaintiff shall adopt the mark “Cook Pro 6” instead of the mark “Cook Studio” for the channels and platforms where the latter mark has been under use and shall completely transition to the mark “Cook Pro 6” and abandon the use of “Cook Studio” by 30th November, 2022.

2. Defendant shall not object to, nor otherwise interfere in any manner with the Plaintiff's use of the mark and iterations of “Cook Pro 6” and shall

also not object to or interfere with any application made by the Plaintiff for the registration of the mark “Cook Pro 6” whether in India or elsewhere.

3. The Plaintiff shall withdraw all trademark registration applications relating to “Cook Studio” and consequently withdraw the captioned suit.

4. The Defendant agrees that these terms shall only be limited to those channels/pages operated by the Plaintiff under the mark “Cook Studio” and shall not prejudice/affect the right of the Plaintiff in respect of any other product, service and/or channel or past/prior acts.

5. These terms shall have prospective effect from the date ascribed herein below.”

6. The above-mentioned settlement terms have been arrived at between the parties under the instructions of Mr. Nikhil Chawla on behalf of the Plaintiff and Mr. Pranav Taneja, Trademark Counsel for the Defendant.

7. The court on perusal of the terms of settlement has found the same to be lawful. There was no impediment in recording the settlement.

8. Accordingly, the parties and all others acting for and on their behalf, shall be bound by the settlement terms contained above. The suit is decreed in terms of the above terms recorded in paras 5(1) to 5(5) above.

9. In view of the fact that the dispute has been amicably resolved, the complete Court fee is directed to be refunded to the Plaintiff in terms of the judgement of the Court in *FAO(OS)(COMM)-42/2018 and CM No. 9553/2018* titled, “*Nutan Batra vs. M/s Buniyaad Associates*”

10. Decree Sheet be drawn. All pending applications are disposed of.

PRATHIBA M. SINGH, J.

SEPTEMBER 12, 2022/MR/SR