

Delhi High Court

Haldiram India Pvt. Ltd vs M/S Krishnashree Foods & Ors. on 30 May, 2023

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CS(COMM) 262/2023  
HALDIRAM INDIA PVT. LTD ..... Plaintiff  
Through: Mr. Neeraj Grover and Ms.  
Ayushi Chandra, Advs.

Versus

M/S KRISHNASHREE FOODS & ORS. .... Defendants  
Through: Mr. Aditya Shankar Prasad, Mr.  
Sameer Kumar, Mr. Shah Rukh Ahmad and  
Mr. Mandeep Baisala, Advs. for Defendants  
1 and 2  
Mr. Manoj Singh, Adv. for Defendant 3

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR  
JUDGMENT (ORAL)

% 30.05.2023 CS(COMM) 262/2023 and IA 10791/2023 (Order XXIII Rule 3 of the CPC)

1. The disputes between the parties stand settled and a joint application under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (CPC) has been filed for decreeing the suit in terms of the settlement arrived at among the parties.

2. The terms of settlement read as under:

"6.1 The Defendant Nos. 1 & 2 admit the Plaintiff to be the owner of the trademark(s) HALDIRAM'S, HALDIRAM BHUJIAWALA, and/or for the entire territory of India and abroad except the State of West Bengal Signature Not Verified RAWAT Signing Date:31.05.2023 15:51:12 inter alia in respect of all kind food item, packed foods, Namkeens, Sweets and/or restaurant services under the common law as well as under the provisions of Trade Marks Act 1999 by virtue of various registrations including the registrations under no. 285062 in class 30 and various other registrations in various classes detailed in the Plaint.

6.2 The Defendant Nos. 1 & 2 further acknowledge the Plaintiff to be the owner of Copyright under the provisions of the Copyright Act 1957 in respect of the original artistic work pertaining to and/or and numerous packaging label(s) under the marks and/or bearing distinctive get-up, layout, colour combination and arrangements.

6.3 The Defendant Nos.1 & 2 further undertake that they shall not directly or indirectly in any manner at any time in future manufacture & sell goods under the trade mark(s) HALDIRAM'S, HALDIRAM BHUJIAWALA, and/or and/or and/or any other mark as may be identical and/or deceptively similar to the mark in respect of

any food related goods or articles or do any such act which may constitute infringement of trademarks, copyrights and/or passing off.

6.4 The Defendant Nos. 1 & 2 further undertake that they shall not directly or indirectly in any manner at any time in represent themselves as being connected with the Plaintiff by using HALDIRAM'S, HALDIRAM BHUJIWALA, and/or and/or and/or any other mark as may be identical and/ or deceptively similar to the mark in respect of any food related services or email ids or food delivery services etc. or use such mark in relation to their packing material, napkins, polypacks, hand bags, etc. or use the same in any manner whatsoever, as may amount to the tort Signature Not Verified RAWAT Signing Date:31.05.2023 15:51:12 of passing off. They further agree that the staff at their restaurants shall not hereinafter wear any T-shirts/caps etc with the impression of the marks of the Plaintiff.

6.5 The Defendant No. 2 herein further admits that the Franchise Agreement 14.10.2011 executed in his favour by Defendant No.3 has expired by efflux of time on 13.10.2020 and is not valid anymore.

6.6 The Defendant No.1 & 2 further agree and undertake that in case they become the distributors and/ or Super stockiest of the Defendant No.3 to distribute his pre packed goods bearing the marks and/or at any time in future, they shall strictly do so in compliance with Settlement Agreement dated 03.05.2016 executed between the Plaintiff and Defendant No.3, copy whereof is available with them and terms whereof have been clearly understood by them. The Defendant No.1 & 2 have clearly understood that Defendant No.3, does not have any right for granting any franchise directly or indirectly for allowing any third party to run any restaurant in the territory of the Plaintiff under the marks and/or and they shall always abide by the same.

6.7 That the Defendant Nos. 1 & 2 hereby further agree and undertake that in case they are found indulging in any act of infringement or passing off with respect to the Plaintiff's rights acknowledged hereinabove and in case they are found to be conducting their business in any manner as may be in contravention of the terms of the present Settlement or even the Settlement Agreement dated 3.5.2016, they shall be liable to pay liquidated damages to the tune of 2,00,00,000/- (Rs. Two Crores) to the plaintiff in addition to other legal remedies including being liable under the Contempt of Court Act, 1973.

6.8 The Defendant Nos. 1 & 2 further agree to suffer a Decree of Permanent injunction as sought in para 46 (a) to (c) of the Plaintiff.

Signature Not Verified RAWAT Signing Date:31.05.2023 15:51:12 6.9 That in the light of the aforesaid undertakings, the Plaintiff hereby agrees to give its no objection to the use the existing packing material under the marks and/or , as is already available with the Defendant Nos. 1 & 2 on or before 18.6.2023.

6.10 That further, in the light of the aforementioned undertakings, the plaintiff agrees not to pursue its claim for delivery up, rendition of accounts, damages and costs against the Defendant and foregoes the prayers as claimed in para 46

(e) to (h) of the Plaintiff.

6.11 Further, in the light of the fact that the Defendant No.1 & 2 have not claimed to have any subsisting license or any agreement or authorization from Defendant No.3, the Plaintiff agrees to withdraw its prayer made in Para 46 (d) of the Plaintiff and drop its claim against Defendant No. 3 in the present suit."

3. Mr. Grover points out that in the Settlement Agreement itself, it is made clear that the plaintiff has no claim against Defendant 3.

4. The parties are represented by learned Counsel who agree on behalf of their respective clients to abide by the terms of settlement.

5. The Court has perused the terms of settlement and finds them to be legal and in order.

6. In view thereof, nothing survives for adjudication in the present suit, which stands decreed in terms of the aforesaid settlement arrived at among the parties. The parties shall remain bound by the terms of settlement.

7. Let a decree-sheet be drawn up accordingly. Signature Not Verified RAWAT Signing Date:31.05.2023 15:51:12

8. The plaintiff would be entitled to refund of the court fee, if any, deposited by it.

9. Miscellaneous application also stands disposed of.

10. The date already fixed, i.e. 4th August 2023 is cancelled.

C.HARI SHANKAR, J MAY 30, 2023 rb Signature Not Verified RAWAT Signing Date:31.05.2023 15:51:12