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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 271/2018, I.A. 6301/2023, I.A. 18020/2023 & I.A.
24616/2023

SOCIETE DES PRODUITS NESTLE, S.A & ANR.Plaintiffs

Through: Mr. Hemant Singh, Ms. Mamta Rani
Jha, Mr. Manish Kumar Mishra, Ms.
Akansha Singh and Ms. Shruti
Manchanda, Advs.
M: 9438804704
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versus

MOHD ZAHID AND SONS & ORS.Defendants

Through: Mr. Pran Krishna Jana, Adv. for D-
157 to 162 & 174
Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly, Adv. for Ministry of
Health and Family Welfare
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Mr. Mayank Arora, Adv. for D-139.
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Mr. Rakesh Chaudhary and Mr.
Sushaar Chaudhary, Advs. for FSSAI
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Mr. Dilshad Husain and Ms. Subhi
Chaubey, Advs. for D-193 to 197 &
199
M: 8057523786
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Mr. Shaurya Krishna and Mr. Amit
Garg, Advs. for R-142 (Through VC)



Mr. Jitendra Anand, Adv. for D-182,
184, 185 and 186 (Through VC)
Mr. Satish Kumar, Adv. for D-110 &
111, (Through VC)
Mr. Sunil Dutt Sixit, Adv. for R-76
(Through VC)
Mr. Puneet Saini, Adv. for D-153,
187, 202, 203 and 208 (Through VC)
Mr. Tarang Agarwal, Adv. for D-183
(Through VC)
Mr. Jitendra Kumar Nayyar, Adv. for
D-190
M: 9810653868

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

11.09.2024

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1. The present suit has been filed for seeking permanent injunction restraining infringement of trademark, passing off, infringement of copyright, unfair competition, rendition of accounts of profits/damages and delivery up, etc.
2. The present suit was filed in the year 2014, wherein, injunction was sought for restraining infringement of the trademark of the plaintiff, i.e., NESCAFE RED MUG device, RED MUG logo.
3. When the matter was listed for hearing on 17th January, 2018, the following order was passed by this Court:

“xxx xxx xxx

9. In my opinion, this is a fit case to pass a decree in favour of the plaintiff and against the defendants noted above. Subject to the said defendants filing an affidavit undertaking to abide by the terms and conditions of paragraph 40(a) to (c) of the plaint, a decree shall be passed in favour of the plaintiff and against such defendants in terms of



paragraph 40(a) to (c) of the plaint. In addition, I also direct that a decree be passed in favour of the plaintiff and against the said defendants who will file the affidavits for a sum of Rs.6,000/- each as damages for the acts done by the said defendants. The defendants may deposit the aforementioned amount with the Registrar General of this Court with advance intimation to learned counsel for the plaintiffs within six weeks from today. Plaintiff would be free to withdraw this amount. The goods which were seized from the premises of the aforementioned defendants which are lying with the plaintiff may be destroyed by the plaintiffs. The application is disposed off.

xxx xxx xxx”

4. Subsequently, vide order dated 15th December, 2023, it was recorded as under:

“xxx xxx xxx

10. In such cases, the Plaintiffs always have the option of complaining to the authorities but it appears that the remedy may not be so effective. Accordingly, all the Defendants who are impleaded in this suit are permanently restrained from manufacturing, selling, offering for sale directly or indirectly counterfeit Nescafe products including the Nescafe coffee packet, red mark logo, etc. Such of the Defendants who pay the sum of Rs.6,000- to the Plaintiffs, in lieu of damages in respect thereof, shall be governed by the order dated 17th January, 2018. In case of those parties who do not pay the said amount, the suit would only be tried in respect of damages. The Plaintiffs are then free to lead evidence to prove damages.

11. Ld. counsel for the Plaintiffs submits that insofar as those defendants where seizure is effected and less than 100 packets which are counterfeit are found, the Plaintiffs are willing to abide by the order dated 17th January, 2018.

xxx xxx xxx

13. This order shall govern all the applications.

14. Insofar as the Defendants against whom the decree is being passed and who are paying the Rs.6,000/- are concerned, in respect of stock of which seizure is made, is permitted to be destroyed in the presence of the Plaintiff's representative.



xxx xxx xxx”

5. Perusal of the aforesaid orders clearly show that this Court has categorically held that where the recoveries made from the defendants is under the number 100, the suit against such defendants can be decreed, in case they deposit a token amount of ₹6,000/- towards damages, with the Registrar of this Court.

6. Accordingly, today learned counsel appearing for the plaintiff submits that 27 defendants, from whom less than 100 items were recovered, have deposited the said amount of ₹6,000/- before this Court. Thus, it is submitted that the suit can be decreed against them, in terms of the aforesaid order.

7. Accordingly, it is directed as follows:

i. Decree of permanent injunction is issued against defendant nos.128, 139, 142, 143, 144, 145, 146, 157, 158, 159, 160, 161, 162, 163, 166, 168, 174, 182, 183, 186, 193 to 197, 199 and 208, details of whom are given as under:

S.No.	Party Details	Defendant No.	Recovery
1.	Mr. Lalit Kumar s/o Shri Bishan Kumar <i>Shop at</i> Choti Mandi, Hapur, Uttar Pradesh	128	1 Piece- 200 gms
2.	Sanjeev Kumar Bharadwaj (owner) Bharadwaj Kirana Store, Kasba Kant, Shahjahanpur, Uttar Pradesh- 242223	139	8 Pieces- 200 gms 10 Pieces- 6.5 gms
3.	Jamuna Agencies, Aminabad Road, Lucknow- 226018 Mob: 9415466413	142	20 Pieces- 200 gms
4.	Mayank General Store 117, Silotipura, Ward No. 9, Hindaun City, Dist. Sawai Madhopur, Rajasthan	143	8 Pieces- 200 gms
5.	Puran Mal VijayMal Kirana Store Surajbhan Market, Hindaun, Rajasthan	144	2 Pieces-200 gms



6.	Sonu Agarwal of Sunil Enterprises, Gopalganj Market, Gangapur, Rajasthan	145	3 Pieces- 200 gms
7.	Supermart, New Mandia, Opp. Police Chowki, Station Road, Hindaun City, Rajasthan	146	14 Pieces- 200 gms
8.	M/s Dammani Traders Mr. Prakash Ram Dammani Mahavir Bazar, Vijay Nagar, Rajasthan- 305624	157	5 Pieces- 200 gms
9.	Gaoutam Store Mr. Dinesh Pamacha, Sabzi Mandi, Vijay Nagar, Rajasthan	158	14 Pieces- 500 gms 1 Piece- 200 gms
10.	M/s Gokul Chand Bhura Lal Sabzi Mandi, Vijay Nagar, Rajasthan	159	5 Pieces- 200 gms
11.	M/s Sampat Singh Sanjay Kumar Shiv Bazar, Vijay Nagar, Rajasthan	160	56 Sachets- 7.5 gms 2 Pieces- 200 gms
12.	M/s Radheyshayam Ram Babu Mr. Ramesh Chand, Ghanta Ghar Kekri, Rajasthan	161	25 Pieces- 200 gms
13.	Chabara Ji Ki Dukan Mr. Rajkumar Chabra, Ghanta Ghar, Kekri, Rajasthan	162	5 Pieces- 200 gms
14.	Mr. Rajesh Kumar Gupta Laldiggi Chowk, (Nagar	163	4 Pieces- 500 gms



	Nigam Building), Gorakhpur, Uttar Pradesh		9 Pieces- 200 gms
15.	Abhishek Trading Co. Mr. Abhishek Gupta, Khoonipur Chowk, Gorakhpur, Uttar Pradesh	166	14 Pieces- 500 gms 13 Pieces- 200 gms
16.	Beriwal Sugar & Kirana Store Mr. Manish Aggarwal 52/7, Shakkar Bati, Kanpur, Uttar Pradesh	168	3 Pieces- 500 gms 9 Pieces- 200 gms
17.	Raj General Store Shop No. 113, Guru Nanak Market Moga, Punjab	174	5 pieces- 200 gms
18.	Mr. Rajeev Kumar, Rajeev Provision Store, Bus stand Road, Deodand Saharampur, U.P	182	1 pieces- 200 gms
19.	Mr. Anil Kumar, Janeshwar Pro Store, Baila Road , Deoband, Saharapur, U.P	183	11 pieces- 200 gms
20.	Mr. Parvez Khan, M/S Parvez Kirana store, Mohalla Takal, Deoband- 247554	186	4 pieces- 200 gms
21.	Mr. Raj Kumar Yadav, Yadav Kirana Store, Lal Mas Dosa, Nagar Palika, Kashipur, Uttarakhand	193	7 pieces- 200 gms
22.	Mr. Ramesh Kumar, Ramesh General Store, Tandev, Ujjain, Amroha, Kashipur	194	5 pieces- 200 gms
23.	Om Kirana Store, Mr.	195	1 pieces- 200



	Tushar Kashipur, Uttarakhand		gms
24.	Manoj Kirana Store, Tandev, Ujjain, Kashipur	196	3 pieces- 200 gms
25.	Gupta Brothers, Main Market, Kashipur, Uttarakhand	197	4 pieces- 500 gms; 3 pieces- 200 gms;
26.	Ms. Jyoti Arora, Prayag Kirana Store, Tanda, Ujjain, Kashipur, Uttarakhand	199	2 pieces- 200 gms
27.	Haseena Kirana Stores Near Kailash Dairy, Kotla Meerut	208	47 pieces- 200 gms

8. Decree sheet be drawn up, in favour of the plaintiff and against the aforesaid defendants, in terms of prayer clauses as contained in paragraph 40 (a) to (c) of the plaint.
9. As regards the other defendants, list for further proceedings before the Joint Registrar (Judicial) on the date already fixed, i.e., 24th October, 2024.
10. Interim order to continue.

MINI PUSHKARNA, J

SEPTEMBER 11, 2024/kr