



\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 271/2018 & I.A. No. 44205/2024**
SOCIETE DES PRODUITS NESTLE,S.A & ANRPlaintiffs

Through: Mr. Manish Kumar Mishra with
Ms. Akansha Singh, Ms. Shruti
Manchanda and Mr. Saransh Saini,
Advocates.
(M): 9438804704
Email: akansha@inttladvocare.com

versus

MOHD ZAHID AND SONS & ORSDefendants
Through: Mr. Navneet Thakram, Advocate for
defendant no. 218.
(M): 9871188474
Email: navneetthakran@gmail.com.
Mr. Vikram Jetly, CGSC with
Ms. Shreya Jetly, Advocate for
Ministry of Health and Family
Welfare.
(M): 9811157321
Email: vikram.jetly@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
% **06.11.2024**

I.A. No. 44205/2024 (Application on behalf of defendant no. 218 seeking appropriate directions to place the undertaking on record)

1. The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 ("CPC") on behalf of defendant no. 218 seeking



appropriate directions, to place the undertaking on record in order to settle the dispute with the plaintiff, in terms of orders dated 17th January, 2018 and 15th December, 2023.

2. Learned counsel appearing for the defendant no. 218/applicant, submits that the applicant is only a small trader who has been deceived by some agents claiming themselves to be agents of the plaintiffs. The applicant has acted *bona fide* and there was no intention to sell or trade in any counterfeit products.

3. It is submitted that vide order dated 17th January, 2018, this Court has held that where the recoveries made from the defendants is under the number 100, the suit against such defendants can be decreed, in case, the said defendants deposit a token amount of ₹6,000.00 (Rupees Six Thousand Only) towards damages, with the Registrar of this Court.

4. The said order was reiterated in a subsequent order dated 15th December, 2023.

5. It is submitted that the applicant admittedly had only 19 packs of 200 gm each and 5 packets of 500 gm each of the counterfeit products. Thus, it is submitted that without prejudice, the applicant herein is ready to suffer decree upon deposit of ₹6,000/-.

6. Learned counsel appearing for the defendant no. 218/applicant further submits that the defendant undertakes not to deal in any manner in counterfeit NESCAFE branded products or any other product under the trademarks NESCAFE, RED MG device and/or RED MUG logo.

7. Issue notice.

8. Notice is accepted by learned counsel appearing for the plaintiffs, who submits that he has no objection if the present application is allowed.



9. Since, the present applicant has given his undertaking and is willing to pay an amount of ₹6,000/- as damages, this Court notes the submission of learned counsel appearing for the plaintiffs that he has no objection to the present application being allowed.
10. Accordingly, the undertaking of the defendant no. 218 is taken on record.
11. The suit is decreed *qua* defendant no. 218 in terms of prayer sought in para 40 (a) to (c) of the plaint.
12. A sum of ₹6,000/- be deposited by the defendant no. 218 with the Registrar General of Delhi High Court within a period of four weeks from today. The plaintiff shall be at liberty to withdraw the said amount.
13. Decree sheet be drawn up.
14. In terms of the aforesaid, the present application is accordingly disposed of.

MINI PUSHKARNA, J

NOVEMBER 6, 2024

C