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

+ **CS(COMM) 697/2022**

TTK PRESTIGE LTD

.....Plaintiff

Through: Mr. Hemant Singh, Mr. Manish
Kumar Mishra, Ms. Saloni Kasliwal,
Advocates (M:9111432161)

versus

KCM APPLIANCES PRIVATE LIMITED

.....Defendant

Through: Ms. Vindhya S. Mani, Mr. Bhuvan
Malhotra, Mr. Devesh Aswal, Ms.
Harshita Agarwal, Advocates
(M:9717065125)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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06.12.2024

1. The issues to be framed have been discussed with the parties.
2. While both the parties are at *ad idem* broadly on the issues that have to be framed, learned counsel appearing for the defendant submits that an issue be framed as regards the suit design registration no. 324727-001.
3. Mr. Hemant Singh, learned counsel for the plaintiff raises objection to the same on the ground that the said issue does not form part of the pleadings in the written statement of the defendant.
4. Responding to the same, learned counsel for the defendant submits that the said issue encompasses the subject matter of the arguments that were raised before this Court, and now which are subject matter of the appeal, before the Division Bench in *FAO(OS)(COMM) 73/2023*.
5. Accordingly, the following issues are framed:



- I. Whether the defendant's Impex Deligh Aluminum Dripless pressure cooker design infringes the plaintiff's registered design bearing Design No. 324727-001 amounting to "piracy" within the meaning of section 22(1) of the Designs Act, 2000? **OPP**
 - II. Whether the plaintiff's registered design is invalid and is liable to be cancelled under provisions of Section 19 of the Designs Act, 2000? **OPD**
 - III. Whether the plaintiff is entitled to a decree of rendition of accounts of profit illegally earned by the defendant or in the alternative damages? **OPP**
 - IV. Whether the suit design bearing registration no. 324727-001 is a validly registered design under the Designs Act, 2000? **OPD**
 - V. Relief.
6. Both the parties are directed to file their list of witnesses within a period of two weeks, from today.
 7. The plaintiff shall file its Evidence Affidavits within six weeks, from today.
 8. Both the parties jointly request that a Local Commissioner be appointed, for recording of evidence.
 9. In view thereof, the following directions are issued:
 - i. Mr. Sunil Goel, Advocate (Mobile No.: 9810215488), is appointed as a Local Commissioner to record the evidence in the suit.
 - ii. The fees of the learned Local Commissioner is fixed at ₹1,50,000/-, to be shared equally by both the parties.
 - iii. The Local Commissioner shall carry out the recording of the evidence within the High Court precinct.



- iv. In case of requirement of the Court File, the Registry shall make arrangements to send the Court file for the sitting before the Local Commissioner.
- v. ₹ 1000/- is fixed towards the fees to be paid to the court staff to carry the court file, and the same shall be borne equally by both the parties
- vi. The parties shall render all assistance to the Local Commissioner for recording of evidence.
- vii. The parties shall endeavour to complete and conclude the trial expeditiously, within a period of six months.
10. A copy of this order, be sent to the learned Local Commissioner.
11. List before the Local Commissioner for fixing of dates for recording of evidence, on 23rd December, 2024.

MINI PUSHKARNA, J

DECEMBER 6, 2024
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