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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 911/2016**
JAGGI AYURVEDIC PHARMACY Plaintiff

Through: Md. Sazid, Adv.

versus

JAGGI AYURVEDIC RESEARCH FOUNDATION..... Defendant
Through: Mr. Sujoy Kumar, Adv.

CORAM:
SH. RAKESH KUMAR (DHJS), JOINT REGISTRAR
(JUDICIAL)

% **ORDER**
13.11.2018

I.A. No. 2546/2017 (under Order 1 Rule 10 r/w Section 151 CPC filed by plaintiff)

1. By filing present application, applicant/plaintiff seeking to add JAGGI PHARMA as defendant no.3 in the present suit on the ground that the JAGGI PHARMA is effective and necessary party for just adjudication of the present case. It is contended that the plaintiff recently got hold one packaging attached with the application which shows the same address as 461-MIE-A Bahadurgarh, District Jhajjar as well as device/logo GAP JAGGI PHARMA. It is further contended since the trade name and device/logo shows JAGGI, which is related to the subject matter or dispute of the present suit, though the plaintiff is not aware of exact constitution of JAGGI PHARMA.

2. On the other hand, dismissal of the application has been prayed on the



ground that no cause of action arose in favour of plaintiff for impleadment of non-applicant M/s JAGGI PHARMA as defendant no.3 and application is vague or no grounds disclosed to justify on merit to implead the non-applicant as defendant no.3.

3. On merit, all the contents are stated to be matter of record except that the non-applicant has no nexus with defendant no.1's business other than the fact that Jitender Jaggi S/o defendant no.2, was one of the partner in the defendant no.1, resigned as a partner and constituted M/s JAGGI PHARMA along with his wife Mrs. Shashi Jaggi and their son Karan Jaggi. It is further contended that the plaintiff has no right or cause of action to restrain the non-applicant JAGGI PHARMA from using the family name JAGGI as such the non-applicant JAGGI PHARMA is not necessary party for adjudication of all alleged dispute raised in the present case.

4. Rejoinder to the reply also filed on behalf of the plaintiff wherein all the contents of the reply has been denied and reiterate the contents of application with further submission that the present application is very much maintainable and ground to made non-applicant M/s JAGGI PHARMA as defendant no.3 has already alleged in the application itself.

5. I have heard the submissions of the parties.

6. Before proceeding further, it is important to mention here that the present suit has been filed against the defendant M/s JAGGI AYURVEDIC RESEARCH as defendant no.1 and also against Smt. Priya Rani as defendant no.2 seeking a decree of injunction thus restraining defendants from using the identical trademark 'JAGGI' and also a decree of rendition of accounts against the defendants.

7. Further vide order dated 11.11.2009 the Hon'ble Court had dismissed



the application of plaintiff under Order 39 Rule 1 & 2 in which injunction against the defendants had been sought and observed in paragraph no. 6 of the order that I also considered that the plaintiff could not have filed this suit in the name of partnership firm since the partnership ceased to exist once a suit for dissolution is filed. The partnership firm is always by WILL and once a partner as filed a suit dissolution or has given notice of dissolution of the firm, the firm ceased to exists. The present suit has been filed by Mr. Om Prakash Jaggi claiming to be one of the partners. He has made other partners as defendants. This itself shows that the partnership was not in existence.

8. In view of the above I am of the considered view that since the non-applicant defendant is the son of defendant no.2 against whom the restraining order 39 Rule 1 & 2 has already been declined by the Hon'ble Court hence, the present application is not maintainable.

8. The application is devoid on merit as such liable to be dismissed.

9. Accordingly, the present application is dismissed.

10. List the matter for entire plaintiff's evidence on 10th January, 2019.

RAKESH KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)

NOVEMBER 13, 2018/tp