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Date : 08/05/2026  
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2026:BHC-OS:12021

S. H. Haldap  
Associate  
08/05/2026

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMMERCIAL MISCELLANEOUS PETITION NO. 45 of 2023




Automark Industries (India) Pvt. Ltd. .... Petitioner/Plaintiff  
Vs.  
Anita Upadhyay & Anr. .... Respondents/Defendant

CONSENT TERMS BETWEEN PETITIONER/PLAINTIFF AND  
RESPONDENT NO. 1/DEFENDANT

1. The above mentioned Commercial Miscellaneous Petition No. 45 of 2023 has been preferred by the Petitioner/Plaintiff for rectification of registration of trademark of the Respondent No. 1/Defendant which was applied on 18.06.2020 and has been registered bearing registration no. 4535505 in Class 17 in respect of the goods as mentioned in the trade mark certificate.
2. This Hon'ble High Court vide order dated 27.03.2026 referred both the parties for Mediation. Accordingly, during the course of mediation the effect of order of District Court, Nagpur on the registration obtained by Respondent No. 1/Defendant was explained by the Ld. Mediator and also various in person meetings were conducted for the purposes of settling not only the Commercial Miscellaneous Petition but also the suit before the District Court, Nagpur. The parties including the lawyers on both sides wholeheartedly supported the mediation and with the help of Advocates on both sides the following consent terms settling the entire dispute between the parties are derived and accepted by both parties.



3. Now therefore both the parties do hereby declare following terms and conditions as "Settlement terms"
- 3.1 The Respondent No. 1/Defendant, hereby unconditionally acknowledges that the Petitioner/Plaintiff is prior user and owner of the trademark which is annexed at **Annexure – A** hereto.
- 3.2 The Respondent No. 1/Defendant hereby agrees to cancel and surrender the following trademarks in her name to the Registrar of Trademarks within the period of 15 Days from the date of Order / Judgment of this Hon'ble High Court and inform cancellation and withdrawal to the Petitioner/Plaintiff in writing.

(Application No. 4535505)	
(Application No. 3863982)	
(Application No. 4483285)	

- 3.3 Respondent No. 1/Defendant specifically and categorically undertakes to this Hon'ble Court that all the necessary compliance with respect to cancellation of the trademarks before the Registrar of Trademarks will be carried out within 15 Days for giving the effect to this consent terms.
- 3.4 Respondent No. 1/Defendant submits to the decree in terms of injunction as prayed in Trade Mark Civil Suit No. 6/2019 which reads as follows-



1. Hold and declare that the defendant, by himself, or any other person claiming through him, including but not limited to his executors, legal heirs, servants, employees, power of attorney holders, agents, is restrained by way of an order in the nature of a perpetual permanent injunction by this Hon'ble Court from infringing the plaintiff's trade mark by using the impugned trademarks and/or any other trade mark / trade name which is deceptively similar to that of the plaintiff, in relation to the services covered by the plaintiff and/or offered by the plaintiff, and/or similar services, in any manner whatsoever.
2. Hold and declare that the defendant, by himself, or any other person claiming through him, including but not limited to his executors, legal heirs, servants, employees, power of attorney holders, agents, is restrained by way of an order in the nature of a perpetual permanent injunction by this Hon'ble Court from passing off the tradename of the plaintiff by using the impugned trademarks and/or any other trade mark / trade name which is deceptively similar to that of the plaintiff, in relation to the services covered by the plaintiff and/or offered by the plaintiff, and/or similar services, in any manner whatsoever.
3. Hold and declare that the defendant, by himself, or any other person claiming through him, including but not limited to his executors, legal heirs, servants, employees, power of attorney holders, agents, is restrained by way of an order in the nature of a perpetual permanent injunction by this Hon'ble Court from passing off the copyright of the plaintiff by using the impugned copyrighted mark and/or any other copyrighted mark / copyrighted name which is deceptively similar to that of the plaintiff, in relation to the services



covered by the plaintiff and/or offered by the plaintiff, and/or similar services, in any manner whatsoever.

- 3.5 Respondent No. 1/Defendant hereby declare that on the date of execution of consent terms the Respondent No. 1/Defendant is having certain stock of packing material which bears the impugned label / mark which are subject matter of this Consent Term, will be used or disposed of within a period of 5 Months i.e., on or before 7<sup>th</sup> October 2026
- 3.6 The Respondent No. 1/Defendant agrees with the Petitioner/Plaintiff and undertakes to this Hon'ble Court that the Respondent No. 1/Defendant shall exhaust and consume the above mentioned stock of packaging material within Five Months from the date of execution of these consent terms and file compliance affidavit stating that after the period of five months there is no stock left in their custody and/or possession. The affidavit of compliance shall be filed on or before 08.10.2026.
- 3.7 The Respondent No. 1/Defendant confirms and undertakes to this Hon'ble Court that they have not filed any trademark/copyright application save and except the aforesaid trade mark registration mentioned in table herein above for seeking registration of any trade mark or artistic work which is deceptively/confusingly similar to the Petitioner's registered mark and/or Petitioner's company/trading name:
- 3.8 The Respondent No. 1/Defendant agrees with the Petitioner/Plaintiff and undertakes to this Hon'ble Court that the Respondent No. 1/Defendant shall not at any time object to and/or oppose or seek rectification of any trademark or copyright application made / registration obtained by the Petitioner/Plaintiff for the marks Registered Marks and/or any other trade



mark or copyright work containing the above as a part thereof and that it shall not otherwise challenge or object to the use, registration or declaration of ownership pertaining to the said trademarks and/or copyrights by the Petitioner/Plaintiff.

4. In view of the aforesaid, parties hereby agree to settle the Suit by submitting the present consent terms before District Court, Nagpur. As the suit itself is getting settled, nothing survives in any interim application, appeal or petition filed by the Respondent No. 1 against the orders passed in the Suit as well as the Interim Application. The decree on admission shall be binding on parties.
5. In view of the aforesaid understanding and consent terms the Respondent has voluntarily agreed to pay a amount of INR 1,51,000/- (One Lakh Fifty One Thousand Only) to "Radhe Shyam Bahuudeshiya Sanstha, Paratwada" situated at Upjilha Rugnalay Achalpur, Tq. Achalpur, Dist-Amravati, Maharashtra-444 806, India.
6. The Parties agree that the present suit be disposed off in terms of the present consent terms.

Dated this 8<sup>th</sup> day of May, 2026

Petitioner/Plaintiff

Respondent No. 1/Defendant

Advocate for Plaintiff

Mediator

Adv. for Respondent



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## ANNEXURE – A

### LIST OF REGISTERED TRADEMARKS OF PETITIONER / PLAINTIFF

Sr. No.	Trade Mark No	Date	Certificate No.
1)	1846361	03.08.2009	1118367





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**ORDINARY ORIGINAL CIVIL  
JURISDICTION**

**Commercial Misc. Petition No. 45 of 2023**

**Automark Industries (India) Pvt Ltd.  
..... Petitioner**

**v/s**

**Mrs. Anita Upadhyay  
..... Respondents.**

**CONSENT TERMS**

**DATED THIS 8<sup>TH</sup> MAY, 2026**

**H.G. Dharmadhikari/Lalita S. Phadke  
ADVOCATE FOR THE PETITIONER**

Unit No.45/46, Veena Nagar, Ph.1,

L.B.S. Marg, Mulund (W),

Mumbai -80