

**20 CS (COMM.) 335/26**  
**DEEPALI MITTAL VS. VIVEK VIMAL VARIA**

16.07.2026

Present : Sh. Jitender Chaudhary (VC) and Ms. Shilpa Chohan, Ld.  
Counsel for plaintiff.  
Ms. Praveena Gautam, Ms. Tissy Annie Thomas, Sh. Ishaan  
Seth and Sh. Pranav Negi, Ld. counsel for defendant.

Defendant has filed Written Statement alongwith Statement of Truth, reply to the application under Order XXXIX Rule 1 & 2 CPCP, reply to application under order 12A of Commercial Courts Act and reply to the application under Section 151 CPC seeking exemption from filing certificate under Order XI Rule 6(3) CPC and Section 63 of BSA, 2023.

Defendant has also filed counter claim under Section 64 of Patents Act, 1970 r/w Order VIII Rule 6A CPC seeking revocation of Patent No. 477427 dated 06.12.2023 alongwith list of documents.

Plaintiff has filed an application under Section 151 CPC seeking exemption from filing certified copy of the Patent Certificate dated 06.12.2023. The plaintiff has also filed Certificates u/s 63 of BSA, 2023.

Considering that the defendant has filed a counter claim under Section 64 of Patents Act, 1970 seeking revocation of Patent, proviso to Section 104 of the Patents Act is adverted to which provides as follows :

*"104. Jurisdiction.*

*No suit for a declaration under section 105 or for any relief under section 106 or for infringement of a patent shall*

*be instituted in any court inferior to a district court having jurisdiction to try the suit:*

*PROVIDED that where a counter-claim for revocation of the patent is made by the defendant, the suit, along with the counter-claim, shall be transferred to the High Court for decision."*

In view of the proviso to Section 104 of the Patents Act, 1970, the present suit and the counter claim filed by the defendant seeking revocation of Patent No. 477427, are required to be transferred to the Hon'ble High Court.

Accordingly, let the matter be placed before the Hon'ble High Court of Delhi for appropriate orders through Ld. Principal District & Sessions Judge, Patiala House Court, New Delhi.

Accordingly, parties are directed to appear before the Ld. Registrar General, Hon'ble High Court of Delhi on **21.07.2026** at 02.30 pm.

Ahlmad is directed to send the suit and counter claim file, complete in all respects, with proper indexing and pagination.

(DEEPALI SHARMA)  
District Judge (Commercial Court-03)  
PHC / New Delhi /16.07.2026