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

+ **CS(COMM) 124/2019**

**CDE ASIA LIMITED**

..... Plaintiff

Through Mr.Sudhir Chandra and Mr.C.M.Lall,  
Sr. Advs. with Mr.Rajat Manchanda, Adv.

versus

**JAIDEEP SHEKHAR & ANR.**

..... Defendants

Through Mr.P.Chidambaram and Mr.Sanjiv  
Puri, Sr.Adv. with Mr.Mohit Bakshi and Mr.Sauj,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

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**16.05.2019**

**IA No. 4830/2019 (u/O 7 R 10 & 11 CPC)**

I have heard learned senior counsel for the defendants.

He has relied upon the judgment of the Supreme Court in the case of *Alloys Wobben & Anr. Vs. Yogesh Mehra & Ors.*, (2014) 15 SCC 360, judgment of the Bombay High Court in the case of *Sergi Transformer Explosion Prevention Technologies Pvt. Ltd. vs. CTR Manufacturing Industries Ltd. & Ors.* in Appeal (L) 854/2015 dated 01.12.2015 and the judgment this court in the case of *Pharmacosmos Holding A/S vs. LA Renon Heathcare Pvt. Ltd. & Anr.*, in CS(COMM) 146/2019 dated 10.04.2019 to contend that the present suit is not maintainable inasmuch as the patent has been granted only on 12.02.2019 and the period of one year has not lapsed since then.

This position has been seriously disputed by the learned senior counsel for the plaintiff.



I may only note that at page 549 of the plaint, the investigator of the plaintiff stated as follows:-

“.... On specific enquiry regarding **Conexus FM 120** machine, Mr.Devaraj revealed that it is a sand washing plant and told that they started manufacturing of said plant in India in August 2018. He revealed that recently they have received an order for four units of **Conexus FM 120** machine from M/s GR Infraprojects Limited, Gurugram, Haryana. He revealed that out of the said four units, first unit has already been delivered at Solapur, Maharashtra, second unit has been sent to Gurugram, Haryana for Bauma Expo after which it will be delivered to M/s GR Infraprojects Limited at their Delhi address and third and fourth machines are in manufacturing stage. To a specific enquiry, Mr. Devaraj revealed that so far they have not exported **Conexus FM 120** machine to any country.

In view of the above submissions, till the next date, I permit the defendants to complete manufacture and delivery of the above stated four machines only subject to filing necessary accounts in court in a sealed cover. The aforementioned four machines may be delivered to the person who ordered them.

The order dated 08.03.2019 is modified to that extent.

List for arguments on 29.07.2019.

**JAYANT NATH, J**

**MAY 16, 2019**

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