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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 638/2019**
M/S LIBERTY FOOTWEAR COMPANY Plaintiff
Through: **Mr. Rajshekhar Rao, Adv.**

versus

M/S LIBERTY FASHION OUTFIT Defendant
Through: **Mr.Sandeep Sethi, Sr. Adv. with**
Mr.Amit Bansal, Mr.Vikar Goel,
Mr.Abhishek Kumar and Mr.Kunal
Dutta, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **24.12.2019**

I.A. 18402/2019

1. This is an application filed by the defendant under order XXXI Rule 4, seeking vacation of ad-interim ex-parte injunction.
2. The only submission of Mr.Sandeep Sethi, learned Senior Counsel appearing for the defendant, is that the plaintiff has concealed a material fact that the defendant / applicant herein has a registration of the device mark
 Had this fact been brought to the notice of this Court, this Court would not have injuncted the defendant at least to that extent, on 20th November, 2019.
3. In that regard, Mr. Rajshekhar Rao, learned counsel appearing for the plaintiff, has drawn my attention to para 31 of the plaint to contend that the

plaintiff had mentioned the factum of registration of the device mark



being Registration No.19959020 in class 25. In fact, he states documents connected therewith have been filed and there is no concealment on the part of the plaintiff.

4. Having heard learned counsel for the parties, the order dated 20th November, 2019 is modified to the extent that the interim order shall not be



read with regard to the device mark which is the defendant's registered mark, as the defendant is entitled to the benefit of registration in terms of Section 28 of the Act.

5. Let reply to the application be filed within three weeks from today. Rejoinder thereto, if any, be filed within one week thereof.

6. List on 30th January, 2020.

V. KAMESWAR RAO, J

DECEMBER 24, 2019/bh