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

+ **CS(COMM) 846/2022 & I.A. No. 48028/2024**

AKUMS DRUGS PHARMACEUTICALS LIMITEDPlaintiff

Through: Mr. Avinash K. Sharma with Mr. R.
Abhishek, Advocates.
(M): 7289036972

versus

FERRING B.V.Defendant

Through: Ms. Apoorva Murali with
Ms. Aishwarya Chaturvedi,
Advocates.
(M): 9717098071

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER
12.12.2024

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I.A. No. 48028/2024 (Application for summary judgment)

1. The present application has been filed on behalf of the defendant under Order XIII-A Rule 4 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC") for passing summary judgment.
2. Learned counsel appearing for the defendant submits that the plaintiff has not challenged the registration and validity of the suit patent. The plaintiff has filed a suit seeking a declaration of non-infringement of the suit patent from the defendant. However, the present suit is not maintainable, as the plaintiff has filed the present suit seeking declaration of non-infringement, without fulfilling the mandatory pre-conditions under Section



105 of the Patents Act, 1970 for seeking such relief.

3. Issue notice.
4. Notice is accepted by learned counsel appearing for the plaintiff.
5. Let reply be filed within a period of four weeks. Rejoinder thereto, if any, be filed within a period of two weeks, thereafter.
6. List on 12th February, 2025.

MINI PUSHKARNA, J

DECEMBER 12, 2024

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