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

+ **CS(COMM) 662/2024**

M/S AVRO INDIA LTD AND ANR

.....Plaintiffs

Through: Mr. Pran Krishna, Advocate
(through VC).

Versus

SURYA MOULDED FURNITURE AND ORS

.....Defendants

Through: Ms. Zeba Tarannum Khan and Mr.
Amresh Soni, Advocates for D-1 & 2.
Ms. Rimjhim Tiwari, Advocate for D-
3.
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Mr. Kuber Mahajan, Advocate for D-
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CORAM:

JOINT REGISTRAR (JUDICIAL) Dr. AJAY GULATI

ORDER

% **26.03.2025**

Regular Stenographer is on leave today.

I.A. No. 46189/2024 on behalf of plaintiff under Order 39 Rules 1 & 2 read with Section 151 C.P.C. for the grant of interim/ad-interim injunction.

1. Reply on behalf of defendant nos. 1 & 2 is on record. Rejoinder thereto has been filed, but it is lying under objection.
2. Ld. Counsel for the plaintiffs is directed to take steps to bring the rejoinder on record within three weeks.
3. Put up again for completion of pleadings.



I.A. No. 46190/2024 on behalf of plaintiff for the appointment of Local Commissioner.

4. Ld. Counsel for the plaintiffs submits that plaintiffs are not pressing this application. Consequently, the application stands dismissed as not pressed and disposed off accordingly.

I.A. No. 46191/2024 on behalf of plaintiff for exemption from exhausting remedy of pre-institution mediation and settlement

5. Ld. Counsel for the plaintiffs submits that the present application has become infructuous. Consequently, the application stands disposed off as having become infructuous.

I.A. No. 46192/2024 on behalf of plaintiff for seeking leave to rely on additional documents

6. Ld. Counsel for defendant nos. 1 & 2 seeks final opportunity to file a reply. Let the same be done within four weeks. On receipt of advance copy of the reply, rejoinder, if any, be filed within two weeks. Since defendant nos. 3 & 4 have been deleted, they are not required to file a reply.

I.A. No. 46193/2024 on behalf of defendant no. 3 for deletion of defendant no. 3 from the array of parties

7. Ld. Counsel for the plaintiff submits that no reply is to be filed. *Submissions have been heard.* Ld. Counsel for defendant no. 3 submits that no specific relief in terms of the subject matter of the suit i.e. infringement of design has been sought against defendant no. 3, defendant no. 3 merely being an intermediary providing a platform for sale of goods by third parties.

8. Further, in para 9 of the present application, defendant no. 3 has given an undertaking that it shall taken down any infringing listing on its platform in case the Hon'ble Court passes an order to that effect and undertakes to do



that even post its deletion. Even in the prayer clause of the suit i.e. para 29 (e) prayer qua defendant no. 3 is to direct them to permanently take down any listings in regard to the infringing designs.

9. Ld. Counsel for the applicant submits that the undertaking given in para 9 of the present application covers the scope of the prayer made in para 29 (e) provided that there is a Hon'ble Court direction to that effect and communicated to them by the plaintiff. Consequently, the application is allowed in the above said terms. Additionally, defendant no. 3 may be notified of the Hon'ble Court's directions through the counsel on record for defendant no. 3. However, it is made clear that obligation to permanently take down the infringing listings is concerning the links/listings mentioned in the plaint. For any additional infringing listings, plaintiff shall take necessary steps for which appropriate directions may be sought from the Hon'ble Court.

10. Defendant no. 3 thus stands deleted from the array of parties.

I.A. No. 46199/2024 on behalf of defendant no. 4 for deletion from the array of parties

11. Ld. Counsel for the plaintiff submits that no reply is to be filed. *Submissions have been heard.* Ld. Counsel for defendant no. 4 submits that no specific relief in terms of the subject matter of the suit i.e. infringement of design has been sought against defendant no. 4, defendant no. 4 merely being an intermediary providing a platform for sale of goods by third parties.

12. Further, in para 8 of the present application, defendant no. 4 has given an undertaking that it shall taken down any infringing listing on its platform in case the Hon'ble Court passes an order to that effect and undertakes to do that even post its deletion. Even in the prayer clause of the suit i.e. para 29



(e), prayer qua defendant no. 4 is to direct them to permanently take down any listings in regard to the infringing designs.

13. Ld. Counsel for the applicant submits that the undertaking given in para 8 of the present application covers the scope of prayer made in para 29 (e) provided that there is a Hon'ble Court direction to that effect and communicated to defendant no. 4 by the plaintiff. Consequently, the application is allowed in the above said terms. Additionally, defendant no. 4 may be notified of the Hon'ble Court's directions through the counsel on record for defendant no. 4. However, it is made clear that obligation to permanently take down the infringing listings is concerning the links/listings mentioned in the plaint. For any additional infringing listings, plaintiff will have to necessary steps to seek appropriate directions from the Hon'ble Court.

14. Defendant no. 4 thus stands deleted from the array of parties.

I.A. No. 46200/2024 on behalf of defendant no. 1 and 2 seeking condonation of delay of 32 days in filing the written statement

15. The present IA has become infructuous since the written statement of defendant nos. 1 & 2 is already on record and even replication thereto has been filed. IA is disposed off accordingly.

I.A. No. 46201/2024 on behalf of defendant no. 4 for condonation of delay in filing written statement and admission/denial affidavit

16. The present IA has been infructuous since the written statement is of defendant no. 4 is already on record. IA is disposed off accordingly.

I.A.No. 46155/2024 (u/o XI Rule 1 (5) of CPC).

17. Reply on behalf of the plaintiff is on record.

18. Ld. Counsel for defendant nos. 1 & 2 submits that rejoinder is in the process of being filed as per rules.



19. Put up again for completion of pleadings.

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20. Defendant nos. 3 & 4 stand deleted. Amended memo be filed by the plaintiff.

21. Pleadings between the plaintiff and defendant nos. 1 & 2 are complete in the suit.

22. Put up again for completion of pleadings in the IA's, on 19.05.2025.

Dr. AJAY GULATI
(DHJS),
JOINT REGISTRAR (JUDICIAL)

MARCH 26, 2025/pu

Click here to check corrigendum, if any