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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 834/2023, I.A. 23080/2023, I.A. 24629/2023, I.A.
24630/2023 & I.A. 876/2024.

UPAKARMA AYURVEDA PRIVATE LIMITED Plaintiff

Through: Mr. Darpan Wadhwa, Sr. Adv. with
Mr. Hemant Daswani, Ms. Saumya
Bajpai, Ms. Pranjal, Ms. Divita Vyas,
Mr. Amar Vaid and Ms. Neelakshi
Bhaduria, Advs.

versus

RASAYANUM ENTERPRISES Defendant

Through: Mr. Aditya Goel, Mr. Anil Goel and
Mr. Pranjal Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
02.02.2024

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1. Counsel for the defendant points out that they will file a response to the application under Order XXXIX Rule 2A Code of Civil Procedure, 1908 for which four weeks were given by the order dated 12th January, 2024. He insists on instructions that there has been full compliance of the order dated 21st November, 2023.
2. Order dated 21st November, 2023 was an *ex parte ad-interim* injunction in favour of the plaintiff restraining the defendant from using the label which was extracted in para 2 of the said order.
3. Counsel for the defendant today points out that they have now received the registration for the device mark by the Registrar of Trade



4. Further, he reiterates that as recorded previously by this Court the packaging for the 10gms. product has now been changed from beige to a dark brown colour, whereas the 20gms. product, some changes have been made.

5. Mr. Darpan Wadhwa, Senior Counsel for the plaintiff, however, points out that the website of the defendant themselves (www.rasayanam.in) on being accessed, even as of today, showed the original packaging of the 20gms. product of the defendant. This, according to him, is enough evidence of the fact that the packaging which was injuncted is still available on their website. He further states that the said product along with this packaging is also available on another e-commerce websites.

6. Counsel for the defendant states on instructions that they have removed all such listings in compliance of the order dated 21st November, 2023 and they have not sold a single product since then.

7. The Court has been shown the website www.rasayanam.in on a computer device in Court and it is obvious that the 20gms. packaging is still available, and also available for purchase as pack of 1, 2, 3, 4, 5 for various prices from Rs.999/- to Rs.800/-. There is a purchase option also given on the said website being “Add to cart”.

8. Counsel for the defendant while reiterating his earlier submission states that he will seek instructions with regard to the presence of the listings of this packaging, which now are obvious from the perusal of the defendant’s own website being accessed before the Court.

9. Compliances with regard to the order dated 21st November, 2023 as also compliance of the directions given in the order dated 12th January, 2024 be also ensured by the defendant and will be included in the reply which



may be filed on or before 08th February, 2024.

10. Counsel for the defendant submits that his application under Order XXXIX Rule 4 CPC may be taken up by this Court. It is pointed out to the counsel that this application has already been listed, and perusal of the previous orders would show that various attempts were made to resolve the issue, however, if non-compliance is apparent of an order of this Court, the defendant would have to first satisfy this Court that there has been no violation of the orders of this Court, before his plea under Order XXXIX Rule 4 CPC can be accepted.

11. List on 21st February, 2024, the date already fixed.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 2, 2024/MK/ig