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

% *Date of Decision : 16.04.2026*

+ **FAO (COMM) 88/2026 CM APPL. 19795/2026 CM APPL. 19796/2026**

**MAHESH VALUE PRODUCTS  
PRIVATE LIMITED**

.....Appellant

Through: Mr. C.M. Lall, Sr. Adv. with Mr. Rahul Vidhani, Mr. Dhruv Sikka, Mr. Lakshay Gupta, Mr. Saurabh Kumar, Ms. Mokshita Gautam, Ms. Shreya Jain, and Ms. Urvashi Arora, Ms. Yashika Sehgal, Ms Annanya Mehan, Adv.

versus

**RIKHAB CHAND JAIN & ORS.**

.....Respondents

Through: Mr. Mukul Rao and Ms. Anju Kumari, Adv. for R-1  
Mr. Manas Raghuvanshi and Mr. Gyanendra Rathour, Adv. for R-3

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**V. KAMESWAR RAO, J. (ORAL)**

1. This appeal lays challenge to an order dated 14.03.2026 passed by the learned District Judge (Commercial Court-10), Central, Tis Hazari Courts, Delhi whereby the learned District Judge has by appointing a Local Commissioner, on an application under Order XXXIX Rule 1 and 2, CPC filed by the respondent nos. 1 & 2 restrained the appellant from using the

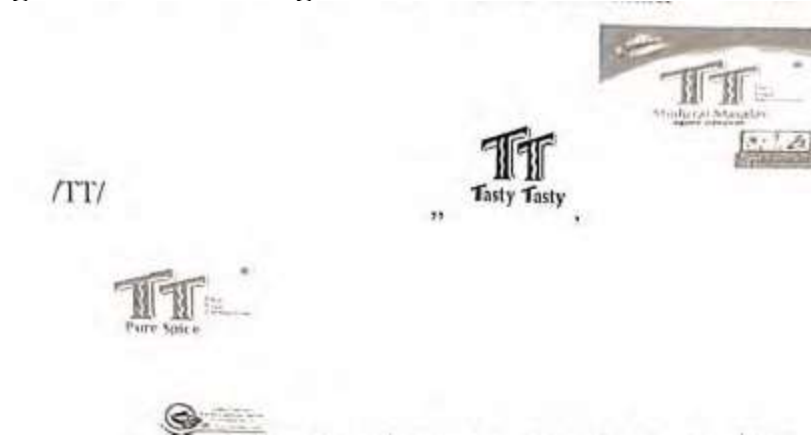


trademark ‘TT’ in the following manner:

“ In the facts and circumstances as already discussed a prima facie case appears in favour of plaintiff. Initial balance of convenience also appears in his favour as plaintiff is registered trademark owner and prima facie defendant do not appear to have any right to store or sell counterfeit goods containing mark of plaintiff.

In the facts and circumstances, till further orders, by way of an ad-interim ex-parte injunction, the Defendants, their directors, partners, servants, principals, agents, stockiest, associates or any of them acting for, claiming under or through or on behalf or in concert with them arc restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in

goods bearing the trademark



or any other trademark which is deceptively similar to the Plaintiff No. 1's trademark.

They are further restrained from infringing the trademark of the Plaintiff No.1 in the work “TT” by reproducing the same in any manner on the goods manufactured by the Defendants or on stationary, letter heads, Guarantee Cards, packing materials used by the Defendants.

They are further restrained from adopting/using, manufacturing, selling, offering for sale, advertising, directly or



*indirectly dealing under the mark and name*



*which is*

*visually similar to the Plaintiff No. 1's trademark TT/ so as to misrepresent their services as those of the Plaintiff No. 1 and from doing any other thing as may cause confusion or deception leading to passing off their services and business as those of the Plaintiff No. 1."*

2. The submission of Mr. C.M. Lall, learned senior counsel for the appellant is that the said order has been passed by the learned District Judge in a suit/plaint where the respondent nos. 1 and 2 herein have concealed the material facts.
3. According to him, the plaint has been filed seeking a restraint order against the appellant with regard to the trademarks TT/TT Tasty Tasty/Tasty Tasty, by concealing that the appellant is the prior adopter and long-standing registered proprietor of the mark 'TT' in respect of Asafoetida tracing its adoption to the year 1895 through its predecessors and had registration as early as 1950 and also extensive portfolio of registrations across classes even thereafter.
4. He states that the appellant has been continuously and extensively using this mark and has substantial goodwill and reputation. In this regard he has drawn our attention to various documents filed along with the appeal. His submission is that the respondent nos. 1 and 2 had issued a legal notice



on 05.05.2017 of which no reference has been given in the plaint.

5. In fact, the appellant had replied to the legal notice wherein it is specifically mentioned that the mark 'TT' with regard to the aforesaid product has been adopted in the year 1895 with registration dating as early as 1950. It is because of concealment of important facts including issuance of legal notice and the reply of the appellant, the impugned order has been passed.

6. He also states that the impugned order is also passed overlooking and without considering the appellant's statutory right as a registered proprietor; its prior use and existence of multiple prior litigations between the parties.

7. In any case, it is his submission that the Trial Court has failed to appreciate the fact that an action for infringement is not maintainable between two registered proprietors as it is the case of the respondent nos. 1 and 2 herein that they also have registrations with regard to the mark 'TT'. He states that the effect of the order is very drastic as the same has resulted in the closure of the business of the appellant with respect to the trademark 'TT'.

8. He states that nothing precluded the District Judge to issue a day's notice to the appellant herein; hear the appellant and then decide the application filed by the respondent nos. 1 and 2 under Order XXXIX Rules 1 and 2 CPC. Moreover, there was no urgency as the plaint was actually filed in the month of December, 2025 and listed before the learned District Judge only in the month of March, 2026 i.e., three months after the filing of the plaint. He states that he has no objection if the matter is remanded back to the learned District Judge for him to consider the application under Order



XXXIX Rules 1 and 2 CPC afresh and decide the same after hearing both the parties but till such time, the injunction order which has been passed be vacated.

9. On the other hand, Mr. Mukul Raao, learned counsel for respondent nos. 1 and 2 would justify the order passed by the learned District Judge. According to him there is no concealment of facts as sought to be alleged by Mr. Lall.

10. He also states that even the respondent nos. 1 and 2 are registered owners of the mark 'TT' and are using the same in all classes w.e.f. 1968. He has drawn our attention to the impugned order to contend that the mark which was registered in the year 1950 has lapsed and as such cannot be relied upon by the appellant. He also states that concededly as per the appeal itself, the registration of the mark which is still valid was registered only on 05.05.1979 and in that sense the usage is subsequent to the usage of the mark by the respondent nos. 1 and 2 herein. This submission is contested by Mr. C.M. Lall, by stating that the mark which has been registered on 05.05.1979 has the usage from 1921.

11. On this, learned counsel for the respondent nos. 1 and 2 submits that the said mark is a composite mark as different from the mark 'TT' of the respondent nos. 1 and 2, which is in usage since the year 1968.

12. Having heard the learned counsel for the parties and perused the impugned order passed by the learned District Judge, we find the only reason given by the learned District Judge, for allowing the application under Order XXXIX Rules 1 and 2 CPC can be seen at internal page 24 of the impugned order which we have already reproduced above.



13. The facts which have been urged by Mr. C.M. Lall, learned senior counsel for the appellant have not been averred in the plaint. *Prima facie*, we are of the view, that in a matter of this nature it is required that the Court has all the facts before it for a considered decision. For this purpose, the Court should have issued a short notice to the appellant for its appearance. Surely, the appellant is justified to contend that absence of notice has resulted in the impugned order, which causes prejudice to the appellant.

14. This Court is of the view that appropriate shall be that the matter is remanded back to the learned District Judge for a fresh consideration of the application filed by the respondent herein under Order XXXIX Rules 1 and 2 CPC.

15. At this stage, Mr. Lall, states that the appellant shall file the reply to the application filed under Order XXXIX Rules 1 and 2 CPC by the respondent within two [2] days from today i.e., on or before 18.04.2026. If that be so, rejoinder, if any, be filed by the respondent no. 1 and respondent no. 2 on or before 20.04.2026.

16. The learned District Judge shall hear the counsel for the parties on the application under Order XXXIX Rules 1 and 2 CPC on 20.04.2026 and decide the said application on or before 23.04.2026 or immediately thereafter.

17. During the course of hearing, learned counsel for respondent nos. 1 and 2 submits that till the decision on the application under Order XXXIX Rules 1 and 2 CPC is taken by the learned District Judge in view of the order passed by this Court today, the interim order passed by the learned District Judge be modified to the extent that the impugned order restraining



the appellant shall not be applicable to the mark 'TT' relating to the products Asafoetida and Appalam. Noting this submission, we modify the impugned order to that extent.

18. At this stage, Mr. C.M. Lall also states that the goods which have been seized by the learned Local Commissioner as shown in Part A and Part B the material/goods in Part A be retained by the respondent nos. 1 and 2 and the material/goods shown in Part B, the appellants shall unpack the cartons/material/goods and retain the food products Asafoetida and Appalam and sell the same in the market by maintaining the accounts. The learned counsel for the respondent nos. 1 and 2 has agreed to the submission of Mr. C.M. Lall.

19. It is made clear that the present order shall be subject to the final determination of the application under Order XXXIX Rules 1 and 2 CPC by the learned District Judge.

20. The appeal is disposed of. Pending applications have become infructuous and are dismissed.

**V. KAMESWAR RAO, J**

**MANMEET PRITAM SINGH ARORA, J**

**APRIL 16, 2026/msh**