



2025:DHC:7803-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 247/2025, CM APPL. 55373/2025 & CM APPL. 55374/2025**

HEMANT KUMAR GOYAL ALIAS HARISH GOYAL.
TRADING AS GOYAL TRADERSAppellant

Through: Mr. Dharmendra K. Yadav, Ms.
Sandhya Anand, Ms. Himani and Mr.
Umesh Kumar, Advs.

versus

YASHWANT JAIN TRADING AS JAIN
TRADERSRespondent

Through: Mr. Neeraj Grover, Mr. Mohit
Sharma, Mr. Ankur Tiwari and Ms.
Aishwarya Amber, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER(ORAL)

% **03.09.2025**

C. HARI SHANKAR, J.

1. There are two perceptible errors in the impugned order.
2. Firstly, there is an apparent discrepancy between paras 21.1 and 25.2 of the impugned order, inasmuch as, in para 21.1, the learned Commercial Court has observed that there could be no case of infringement against the owner of a registered trade mark and, in para 25.2, has proceeded to hold that a *prima facie* case of infringement of trade mark is made out.
3. Secondly, the interim order has been passed on a finding of passing off without recording a *prima facie* finding of goodwill.



4. With consent of the parties, the impugned order is quashed and set aside. The application of the respondent under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908¹ is remitted for consideration afresh by the learned District Judge (Commercial Court), North-West, Rohini.
5. Both sides are directed to appear before the learned Commercial Court on 16 September 2025, the date already fixed.
6. The learned Commercial Court is requested to hear and decide the Order XXXIX application of the respondent afresh, uninfluenced by the impugned order.
7. Both sides undertake that they would not seek any adjournment on the next date of hearing.
8. The learned Commercial Court is also requested to hear arguments on the application on the said date and take decision thereon either on the same date or as early as may be possible.
9. The appeal stands disposed of without expressing any opinion on the merits of the application.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

SEPTEMBER 3, 2025/gunn

¹ “CPC”, hereinafter