



2025:DHC:6470-DB



\$~66

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 193/2025, CM APPL. 44439/2025, CM APPL. 44440/2025, CM APPL. 44441/2025 & CM APPL. 44442/2025**
M/S P V PRODUCTS & ORS.Appellants

Through: Mr. Arnav Goyal and Mr. G.D. Bansal, Advs.

versus

M/S. TEJ RAM DHARAM PAUL & ANR.Respondents
Through: Mr. Shailen Bhatia, Ms. Deeksha Gulati and Mr. Varun Kajla, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER (ORAL)
04.08.2025

%

C. HARI SHANKAR, J.

1. This appeal assails an *ex parte ad interim* order dated 26 May 2025 passed by the learned District Judge (Commercial Court)¹, Patiala House Courts, New Delhi, in an application filed by the respondent-plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908² in a trademark infringement suit.

2. By the impugned order, the learned Commercial Court has, while issuing notice in the application under Order XXXIX Rules 1

¹ "the learned Commercial Court" hereinafter

² "CPC" hereinafter



2025:DHC:6470-DB



and 2, passed an *ad interim* order of injunction against the appellant in the following terms:

“24. Consequently, till the next date of hearing, the defendants, their officers, servants, agents, dealers, distributors and all others acting for and on their behalf are restrained from using the impugned



trademark/packaging COOL1 / on goods i.e. mouth freshner and other allied/cognate goods thereby infringing the plaintiffs' mark, copyright and passing off their goods and services as that of plaintiffs.”

3. Additionally, the learned Commercial Court appointed a Local Commissioner to visit the premises of the appellant and to inventorise and take into custody goods which were found to be infringing in nature.

4. The matter was re-notified for 5 July 2025.

5. On 5 July 2025, the learned Commercial Court directed completion of pleadings and recorded the contention of learned Counsel for the appellants-defendants that they had stopped production of allegedly infringing goods after receipt of the *ad interim* order dated 26 May 2025, as well their undertaking not to sell the allegedly infringing goods lying at the premises of Appellant 1 at C-39, Marudhar Industrial Area, 1st Phase, Basni, Jodhpur-342005.

6. The learned Commercial Court has listed the application under Order XXXIX Rules 1 and 2 of the respondents for arguments on 19



2025:DHC:6470-DB



September 2025.

7. In these circumstances, we do not see why the appellant has approached this Court by means of the present appeal.

8. In any event, the appellant has already stated, before the learned Commercial Court, that the appellants are not using the allegedly infringing mark. They have also undertaken not to sell the goods which are lying at the premises of Appellant 1 at C-39, Marudhar Industrial Area, 1st Phase, Basni, Jodhpur-342005.

9. The learned Commercial Court has fixed the Order XXXIX Rules 1 and 2 application for final hearing on 19 September 2025.

10. The challenge in this case is to an *ex parte ad interim* order. Any observations made by us are bound to prejudice the decision of the learned Commercial Court when it hears the Order XXXIX Rules 1 and 2 application finally.

11. We do not see any such exceptional circumstance as would require us to interfere, when the Order XXXIX Rules 1 and 2 application of the respondents is anyway listed for hearing on 19 September 2025.

12. We merely clarify that the learned Commercial Court would decide the Order XXXIX Rules 1 and 2 application without being



2025:DHC:6470-DB



influenced by any observations or findings contained in the impugned order dated 26 May 2025.

13. In order to expedite matters, we also direct learned Counsel for both sides to have ready, for facilitation of the learned Commercial Court, short written submissions not exceeding four pages each and to exchange copies with each other before the hearing. If it is possible to place the submissions on record before the matter is listed for hearing, learned Counsel would ensure that it is so done.

14. This appeal stands disposed of with the aforesaid observations, without going into merits.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 4, 2025/ng