



2026:DHC:1781-DB



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

+ RFA(OS)(COMM) 13/2025

SURINDER KUMAR WADHWA & ANR. ....Appellants

Through: Mr. Jai Sai Deepak, Sr. Adv.  
with Mr. Nikhil Sharma, Ms. Mugdha  
Palsule, Advs.

versus

KONINKLIJKE PHILIPS N.V. ....Respondent

Through: Mr. Dayan Krishnan, Sr. Adv.  
with Mr. Pravin Anand, Ms. Vaishali Mittal,  
Mr. Siddhant Chamola, Mr. Sridhar, Mr.  
Gursimran Singh Narula, Advs.

+ RFA(OS)(COMM) 8/2025

MAJ (RETD.) SUKESH BEHL PROPRIETOR, M/S PEARL  
ENGINEERING COMPANY & ANR. ....Appellants

Through: Mr. Jai Sai Deepak, Sr. Adv.  
with Mr. Nikhil Sharma, Ms. Mugdha  
Palsule, Advs.

versus

KONINKLIJKE PHILIPS NV ....Respondent

Through: Mr. Dayan Krishnan, Sr Adv,  
with Mr. Pravin Anand, Ms. Vaishali Mittal,  
Mr. Siddhant Chamola, Mr. Sridhar, Mr.  
Gursimran Singh Narula, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**JUDGMENT (ORAL)**

**26.02.2026**

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**C. HARI SHANKAR, J.**

**REVIEW PET. 89/2026 in RFA(OS)(COMM) 13/2025**

**REVIEW PET. 73/2026 in RFA(OS)(COMM) 8/2025**

1. Alleging that the appellants had infringed Indian Patent IN 218255<sup>1</sup>, pertaining to a “Method of Converting Information Words to a Modulated Signal”, the respondent, Koninklijke Philips N.V.<sup>2</sup>, instituted CS (Comm) 423/2016, CS (Comm) 499/2018 and CS (Comm) 519/2018<sup>3</sup> against the appellants, seeking decrees of permanent injunction, restraining them from infringing the suit patent and also claiming damages and costs.

2. During the course of the suits, the suit patent IN’255 expired by efflux of time. The prayers for injunction were, therefore, rendered infructuous, and the suits survived only qua damages and costs.

3. By judgment dated 20 February 2025, a learned Single Judge of this Court disposed of the suits awarding damages of ₹ 7,22,50,000/-, along with interest in CS (Comm) 423/2016, ₹ 1,61,85,000/- along with interest and additional damages of ₹ 1,00,00,000/- in CS (Comm) 519/2018 and ₹ 12,43,25,700/- along with interest and additional damages of ₹ 1,00,00,000/- in CS (Comm) 499/2018.

4. These Review Petitions have been filed only in RFA (OS) (Comm) 13/2025, which emanates from CS (Comm) 519/2018, and

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<sup>1</sup> “IN’255”, the suit patent hereinafter

<sup>2</sup> “Philips”, hereinafter

<sup>3</sup> “the suits”, hereinafter



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RFA (OS) (Comm) 8/2025, which emanates from CS (Comm) 423/2016. Pearl Engineering is the main appellant in RFA (OS) (Comm) 8/2025 and Siddharth Optical is the main appellant in RFA (OS) (Comm) 13/2025.

5. We will not, therefore, advert, hereinafter, to RFA (OS) (Comm) 14/2025, as no Review Petition has been preferred therein.

6. The appeals were accompanied by CM Appl. 25908/2025 [in RFA (OS) (Comm) 8/2025] and CM Appl. 31118/2025 [in RFA (OS) (Comm) 13/2025], under Order XLI Rule 5 of the CPC<sup>4</sup>, seeking stay of execution of the impugned judgment and decree.

7. By a detailed judgment dated 5 January 2026, we disposed of the aforesaid CM Appl. 25908/2025 [in RFA (OS) (Comm) 8/2025] and CM Appl. 31118/2025 [in RFA (OS) (Comm) 13/2025], with a direction to the appellants to furnish, in each case, an unconditional and irrevocable bank guarantee covering the principal amount of damages awarded by the learned Single Judge.

8. Having thus obtained substantial respite from the requirement of depositing the entire decretal amount with the Court, which is the ordinary norm under Order XLI Rule 5 of the CPC, and having been required only to furnish a bank guarantee for the principal amount in each appeal, the appellants, like Oliver Twist, want more. The appellants have now filed the present Review Petitions, seeking

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<sup>4</sup> “Code of Civil Procedure, 1908”, hereinafter



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review of our judgment dated 5 January 2026, and consequently, seeking an absolute stay of execution of the impugned judgment dated 20 February 2025 of the learned Single Judge, without having to make any deposit whatsoever.

9. We have heard Mr. J. Sai Deepak, learned Senior Counsel for the appellants and Mr. Dayan Krishnan, learned Senior Counsel for the respondent.

10. Before adverting to rival submissions of learned Senior Counsel, it would be appropriate to set out, briefly, the manner in which we have arrived at our decision to direct furnishing of a bank guarantee for the principal amount in each appeal as a condition for grant of stay.

11. The suit patent relates to a Method of Converting Information Words to a Modulated Signal through a technology known as “EFM+ coding”. Inasmuch as it proffers to claim an essential and integral industry standard in the manufacture, storage and replication of data in Digital Versatile Discs<sup>5</sup>, the suit patent qualifies as a Standard Essential Patent<sup>6</sup>. There were 13 claims in the suit patent. Claims 1 to 11 and 13 are method claims. Claim 12 claims a “record carrier on which the modulated signal obtained by the method claimed in any one of the preceding claims is provided in a track”.

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<sup>5</sup> “DVDs”, hereinafter

<sup>6</sup> “SEP”, hereinafter



12. The appellants' contention, both before the learned Single Judge as well as before us, was that it merely undertakes a process of replication by which data contained on stampers, sourced from Moser Baer India Ltd.<sup>7</sup> was replicated by the appellants on to DVDs. The contention was that the process of EFM+ coding was involved in the creation of the stampers, in which the appellants play no part. The replication of the data on DVDs from the stampers, it was submitted, was a pure mechanical process which did not involve EFM+ coding and was therefore outside the scope of the suit patent.

13. The learned Single Judge, in his judgment dated 20 February 2025, interpreted Claim 12 in the suit patent to include not merely the stamper but also the DVDs and the process of replication of the data from the stamper on to the DVDs.

14. In our judgment, we have held that, at least at the Order XLI Rule 5 stage, this was a *prima facie* finding based on interpretation of Claim 12 in the suit patent, which did not brook interference.

15. Of this finding, no review is sought.

16. We thereafter proceeded to examine the manner in which the learned Single Judge computed damages. As the suit patent was a SEP, damages would have to be computed on the basis of the royalty to which Philips would be entitled at FRAND<sup>8</sup> rates. Working out the

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<sup>7</sup> "Moser Baer", hereinafter

<sup>8</sup> Fair, Reasonable and Non-Discriminatory



royalty payable to the Philips would involve (i) a determination of the FRAND royalty rate to which the appellants would be entitled, per DVD replicated by them and (ii) assessment of the number of DVDs replicated by the appellants, from the stampers sourced from Moser Baer. This latter step (ii), further, involved (a) determination of the number of stampers sourced from Moser Baer by the appellants and (b) determination of the number of DVDs which could be replicated from one stamper. Needless to say, the product of (a) and (b) would be the number of DVDs replicated by the appellants, to which the assessed per DVD FRAND royalty rate could be applied, to work out the FRAND royalty to which Philips would be entitled.

**17.** The FRAND royalty rate was worked out by the learned Single Judge at US \$ 0.03 per DVD. This was not questioned by the appellants in the appeals.

**18.** Towards determination of factor (a) in para 16 above, the learned Single Judge called upon the appellants to disclose the number of stampers procured by them from Moser Baer, but the appellants failed to do so. As a result, Philips had to communicate with Moser Baer seeking details regarding the number of stampers replicated by the appellants.

**19.** In the case of Pearl Engineering Company, the data provided by Moser Baer confirmed that, during the period 14 July 2008 to 30 May 2015, Moser Baer had supplied 3031 stampers to Pearl Engineering. The learned Single Judge had noted that the authenticity of this



document was not questioned by Pearl Engineering. From this figure, the learned Single Judge extrapolated the number of stampers supplied to Pearl Engineering, during the period of three years prior to filing of the suit, till expiry of the suit patent on 12 January 2015, as 2500. The correctness of this figure was also not questioned by Pearl Engineering. We held that, even otherwise, as Pearl Engineering had not been forthcoming with respect to the number of stampers sourced from Moser Baer, at a *prima facie* stage, there was no reason to discredit the figure of 2500.

**20.** Once the number of stampers procured from Moser Baer had been found to be 2500 during the period in issue, the only remaining element in the arithmetical exercise leading up to the computation of royalty payable at a FRAND rate of US \$ 0.03 per DVD was to assess the number of DVDs which could be produced from 2500 stampers. The learned Single Judge held, on an estimate of 10000 DVDs emerging from one stamper, that the total number of replicated DVDs was 250,00,000.

**21.** It is at this juncture that we felt that the appellants had made out a case for dispensation with the otherwise standard requirement of deposit of the entire decretal amount.

**22.** We found, *prima facie*, the figure of 10,000 to be without any basis forthcoming in the impugned judgment.

**23.** In the case of Siddharth Optical, the learned Single Judge held



that Siddharth Optical would have manufactured and sold 65,00,000 DVDs during the period in issue. We could not, *prima facie*, discern any basis for this figure in the judgment of the learned Single Judge.

24. Thus, while we did not find any *prima facie* reason to show leniency while exercising jurisdiction under Order XLI Rule 5 of the CPC in so far as the aspect of infringement was concerned, we found the exercise of determination of the royalty payable to be, to the extent of determination of the number of stampers replicated by the appellants, to be *prima facie* somewhat speculative, without sufficient basis forthcoming in the impugned judgment or otherwise from the record.

25. We, therefore, held that the case did not justify directing deposit of the entire decretal amount and that the appellants were entitled to relief to some extent. We, therefore, directed the appellants in each case to furnish an irrevocable and unconditional Bank Guarantee for the principal amount, decreed by the learned Single Judge in the corresponding suits within a period of eight weeks.

26. Pearl Engineering and Siddharth Optical now seek, by these Review Petitions, review of our order and pray that complete stay of execution of the impugned judgment and decree be granted.

27. The only submission advanced by Mr. J Sai Deepak, learned Senior Counsel for the appellant - which is indeed the primary submission in the review petitions as well – is that the appellants



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never claimed, in their plaints in the suits, the damages granted by the learned Single Judge, and that the plaints were never amended. The damages awarded by the learned Single Judge were contained only in written submissions filed by the appellants before him. Mr. Sai Deepak submits that, without amending the plaint, there could be no question of awarding the damages sought in the written submissions. He has drawn our attention, in this context, to the paragraphs in the plaint and the prayer clause therein which deal with the valuation of the suit. These paragraphs are identical in the suits and we, therefore, reproduce para 47(d) and para 48(vi) [containing the prayers] in CS (Comm) 519/2018 thus:

Para 47 (d)

“d) For an order of damages, this relief is valued for the purposes of court fees and jurisdiction at ₹ 50,00,000/- and court fees of Rs. 51,144/- is affixed thereon.”

Para 48(vi)

“vi) A decree for damages of ₹ 50,00,000/- be granted for infringement of the Plaintiffs patents by the Defendants.”

**28.** Mr. Sai Deepak’s contention is that Philips having claimed damages of only ₹ 50 lakhs in each of these suits, it could not have been awarded damages of much higher amounts by the learned Single Judge without amending the plaint. This sole factor, according to him, suffices to grant complete stay of execution of the judgment of the learned Single Judge and, in failing to do so, this Court has committed an error apparent on the face of the record. He relies for this submission on the judgments of the Supreme Court in *Lifestyle*



***Equities C.V. v. Amazon Technologies Inc<sup>9</sup> and Ramnik Madhvani v. Taraben Madhvani<sup>10</sup>.***

29. Having heard Mr. J Sai Deepak and perused the said decisions, we are unable to agree with him that a case for review of our order within the parameters of Order XLVII Rule 1 of the CPC is made out.

30. The judgment of which review is sought is discretionary in nature. We have factored in various factors, already noted *supra* and, keeping in mind the law that applies, have refrained from directing deposit of the entire decretal amount which is the ordinary norm under Order XLI Rule 5 of the CPC as *Lifestyle Equities* itself holds. Instead, we have only directed furnishing of a bank guarantee and that too, only for the principal amount in each appeal.

31. A case for review would, therefore, be made out only if the appellant-review petitioner is able to demonstrate that it was completely impermissible for us to pass such an order and that we were bound in law to direct complete stay of execution of the judgment and decree of the learned Single Judge. Only then could it be said that our decision suffers from an “error apparent on the face of the record”.

32. Where the order of which review is sought is discretionary in nature, and the *existence* of discretion is not questioned, a case for

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<sup>9</sup> 2025 SCC OnLine SC 2153

<sup>10</sup> (2004) 1 SCC 497



review would be made out only if it is demonstrated that the manner of exercise of discretion was palpably *impermissible* in law.

33. The decisions on which Mr. Sai Deepak relies i.e. *Lifestyle Equities* and *Ramnik Madhvani*, do not, in our opinion, make out such a case.

34. *Lifestyle Equities* was a case in which there were manifold grounds on which this Court resolved not to direct any deposit of the decretal amount. The respondents in that case had not been formally served in the suit. The entire trial, therefore, took place in the absence of the respondents. This Court also noted that there were no allegations of infringement against Amazon US, against whom the judgment of the learned Single Judge had awarded damages of ₹ 336,02,87,000.00/-. Furthermore, the Court noted that the order of the learned Single Judge, too, did not return any specific finding of either of infringement or of any involvement in the allegedly infringing activities of Amazon US. It was on a cumulative assessment of all these factors that we held the case to be an extraordinary one deserving complete exemption from the requirement of deposit of the decretal amount.

35. A reading of the judgment of the Supreme Court in *Lifestyle Equities* reveals that the Supreme Court has also found our order to be justified in view of all these factors, seen cumulatively.

36. In the present case, the only one of these aspects which,



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according to Mr. J Sai Deepak, applies, is that the damages claimed in the suit were only ₹ 50 lakhs in each case and the plaints were never amended.

37. That sole factor by itself, to our mind, may not make out a case for reconsideration of our decision.

38. Unlike *Lifestyle Equities*, the appellants in these appeals, were represented before the learned Single Judge and the entire trial and conducting of the proceedings took place in their presence. The FRAND royalty rate of US \$ 0.03 per DVD has not been questioned by the appellants even in these appeals. In so far as the number of DVDs replicated by the appellants was concerned, the learned Single Judge noted that the appellants were not forthcoming though they were directed to disclose this figure. Philips, therefore, had no option but to seek information from Moser Baer in that regard and the learned Single Judge proceeded on the basis of the information obtained from Moser Baer.

39. It is not as though, therefore, the learned Single Judge has merely accepted the figure contained by the respondent in their written submissions and decreed the suit. He has given, *prima facie*, cogent and relevant reasons for working out the printed stampers procured from Moser Baer as well as the FRAND royalty rate per DVD. The only link, for which there was insufficient material on record, was the number of DVDs which could be replicated from the stampers.



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40. Clearly, therefore, the facts in these appeals cannot be compared with those which were before this Court in *Lifestyle Equities*.

41. Even more distant from the present appeals is, to our mind, the decision in *Ramnik Madhvani*.

42. In that case, the Supreme Court held that interest at bank rate could not have been awarded without any such claim having been made in the plaint. Quite obviously, that case cannot even be remotely compared to that. That case pertained to a claim for interest at a particular rate, and awarding of interest at a much higher rate without any basis. In the present case, we have found that the decision of the learned Single Judge is substantially supported by material which emerged during trial, though *prima facie* we have found the manner of working out by the learned Single Judge of the number of replicated DVDs, to be arguable.

43. Neither of these decisions, to our mind, makes out a case for us to reconsider our judgment under review to the extent it directs the appellants to furnish an irrevocable bank guarantee covering the principal amount in these appeals for grant of stay of the execution of the judgment and decree of the learned Single Judge.

44. We, therefore, are of the opinion that no case for review of our order is made out.



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45. Mr. J Sai Deepak seeks, at this stage, extension of time to furnish bank guarantees as directed by us. Mr. Dayan Krishnan, per contra, vociferously opposes the prayer and submits that the appellants have already reaped a windfall in not having been directed to deposit the entire decretal amount. No further leniency should be shown to them, he urges.

46. We might have been inclined to agree with Mr. Krishnan, had it been a case where we had not issued notice on these review petitions. Having issued notice on these review petitions, which have remained pending after notice since then, we are of the opinion that the appellants would, in the interest of equity and fairness, be entitled to some further time to comply with the requirement of furnishing a bank guarantee.

47. Accordingly, while dismissing the review petitions on merits, we enhance the time for depositing the bank guarantees in accordance with our judgment dated 5 January 2026 by a period of two weeks from the date of uploading of this order on the website of this Court.

48. We make it clear that no further extension of time would be granted, and that failure to comply with the direction for furnishing bank guarantees would result *ipso facto* in dismissal of CM Appl. 25908/2025 and CM Appl. 31118/2025 without further reference to the Court.

49. Subject to the grant of extension of time as above, the review



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petitions are dismissed.

**50.** Let a copy of this order be e-mailed forthwith to learned Counsel for the parties, and uploaded on the website of this Court.

**C. HARI SHANKAR, J.**

**OM PRAKASH SHUKLA, J.**

**FEBRUARY 26, 2026**

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