



2025:DHC:6354-DB



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

+ **FAO (COMM) 141/2024**

**RITA RIKH** .....Appellant

Through: **Mr. Rohit Bansal, Adv.**

versus

**ARVIND GAUTAM** .....Respondent

Through: **Mr. Vishal Tewari, Adv.**

**CORAM:**

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

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

**JUDGMENT (ORAL)**

**31.07.2025**

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**C. HARI SHANKAR, J.**

1. This appeal, we are constrained to say, is totally unnecessary and has taken up unnecessary judicial time.

2. Having been granted, by the learned District Judge (Commercial Court), Dwarka<sup>1</sup>, the exact relief sought by her, the appellant has approached this Court, like Oliver Twist, wanting more.

3. The appellant instituted CS (COMM) 472/2023 before the District Judge (Commercial Court), Dwarka alleging infringement, by the respondents, of the appellant's registered trademark "Dr. Rikh's Clinic". The trademark was not registered and the case set up by the

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<sup>1</sup> "the learned Commercial Court" hereinafter



appellant is of passing off.

4. The appeal was accompanied by an application under Order XXXIX Rules 1 and 2 of the CPC, seeking interim injunction against the respondent. The prayer clause in the application reads thus:

“It is, therefore, most respectfully and humbly prayed that this Hon’ble Court may kindly be pleased to

a) Pass an ad-interim ex-parte order restraining the Defendant its partners or proprietors, principal officers, servants, agents and distributors and all others acting on its behalf as the case may be *from using plaintiffs trademark "Dr Rikh's clinic"* for its services;

b) Pass an order directing the Defendant to file a statement of accounts and assets on affidavit within a period of 2 weeks from service of notice of the present application, and restraining the Defendant from disposing of or dealing with his assets in a manner which may adversely affect the Plaintiffs ability to recover damages (as may be computable), costs or other pecuniary remedies which may be finally awarded to the Plaintiff;

c) Pass any other order as the court may deem fit.”

5. The learned Commercial Court has, *vide* the impugned order dated 14 May 2024, granted interim relief exactly in the terms prayed by the appellant. The operative portion of the impugned order reads thus:

“In view of the foregoing discussions and the statement made by the defendant recorded separately, it is directed that the defendant, his agents and distributors are restrained from using the trade mark "Dr. Rikh's Clinic" in any manner or any form including on any material with immediate effect till disposal of the suit. Application under Order 39 Rule 1 and 2 of CPC stands disposed of accordingly.”



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6. The appellant is not, however, satiated. She wants more. She has, therefore, approached this Court by means of the present appeal, praying that the order passed by the learned Commercial Court be modified and that the injunction against the respondent be extended to cover the word “Rikh” and not limited to the mark “Dr. Rikh’s Clinic”.

7. It is obvious that this appeal is completely frivolous. There was no prayer by the appellant before the learned Commercial Court for any injunction against the use, by the respondent, of the mark “Rikh”. The prayer was specifically against use of the mark “Dr. Rikh’s Clinic”. That prayer stands granted.

8. We do not see how the appellant could even come to this Court by means of the present appeal seeking a modification of the order passed by the learned Commercial Court and extending the injunction to the mark “Rikh” *per se*.

9. Though we would have been inclined to award costs in this matter, we restrain ourselves from doing so.

10. The appeal is, accordingly, dismissed.

**C. HARI SHANKAR, J.**

**OM PRAKASH SHUKLA, J.**

**JULY 31, 2025/aky**