



\$~14

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 697/2019 & I.A. 1389/2020, I.A. 2849/2020,**  
**I.A. 11026/2020, I.A. 13614/2021, I.A. 14734/2021, I.A. 755/2022,**  
**I.A. 6548/2022, I.A. 11315/2022.**

**BISLERI INTERNATIONAL PRIVATE LIMITED .....Plaintiff**

Through: **Mr. N.K. Bhatnagar, Advocate.**

versus

**M/S SHRI SAI FOODS & BEVERAGES & ORS. ....Defendants**

Through: **Mr. Nishant Verma, Advocate for**  
**defendant no. 2/ *John Doe*.**  
**Mr. Rajinder Singh, Mr. Kuldeep Rai**  
**and Mr. Arjun Sharma, Advocates for**  
**proposed defendant no. 39.**  
**Mr. Rahul Beruar and Ms. Jyotsana**  
**Sinha, Advocate for proposed**  
**defendant no. 48.**  
**Mr. Yatin Khochare, Mr. Jay Shah,**  
**Mr. Minesh Andharia, Ms. Pritika**  
**Juneja and Mr. Abhilash Gupta,**  
**Advocates for defendant no. 52 along**  
**with defendant no. 52 in person.**  
**Ms. Amrita Sharma and Mr. Darpan**  
**K.M., Advocates in IA 14734/2021.**

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**  
**09.12.2024**

%

**I.A. 37583/2024 (O-XXXIX Rule 4 of CPC)**

1. The present application has been filed under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 ('CPC') on behalf of defendant no.52,



seeking vacation of the *ex-parte* ad interim injunction granted by this court on 18<sup>th</sup> December, 2019, which was subsequently confirmed by order dated 1<sup>st</sup> April, 2024.

2. Issue notice.
3. Notice is accepted by counsel for the non-applicant.
4. Reply to the application be filed within four weeks.
5. Rejoinder thereto, if any, be filed within two weeks thereafter.
6. List before the Joint Registrar on 5<sup>th</sup> February, 2025 for completion of pleadings.
7. List on 2<sup>nd</sup> April, 2025.

**I.A. 37585/2024 (O-VII Rules 10 and 11 of CPC)**

8. The present application has been filed on behalf of defendant no.52 under Order VII Rules 10 and 11 of CPC, seeking rejection of the plaint.
9. Issue notice.
10. Notice is accepted by Mr. N.K. Bhatnagar, counsel for the plaintiff.
11. Reply to the application be filed within four weeks.
12. Rejoinder thereto, if any, be filed within two weeks thereafter.
13. List before the Joint Registrar on 5<sup>th</sup> February, 2025 for completion of pleadings.
14. List on 2<sup>nd</sup> April, 2025.

**I.A. 37586/2024 (under Section 5 of Limitation Act)**

15. This application has been filed on behalf of defendant no. 52 seeking condonation of delay of 72 days in filing an affidavit of compliance in terms of the order dated 14<sup>th</sup> March, 2024.
16. Mr. Bhatnagar, counsel for the plaintiff does not oppose the present application.



17. Accordingly, the application is allowed.

18. The affidavit of compliance filed by defendant no. 52 on 17<sup>th</sup> August, 2024 is taken on record.

**I.A. 10946/2024 (O-XXXIX Rule 2A of CPC)**

19. In the compliance affidavit filed on behalf of defendant no. 52, it is stated that the said defendant has not used the impugned mark 'BISLE DEW' with effect from 6<sup>th</sup> February, 2024, pursuant to the injunction order passed by the High Court of Bombay.

20. Upon a query from the Court, counsel submits that defendant no. 52 is currently selling his products under the mark 'BESTO'.

21. The aforesaid statement is taken on record.

22. The defendant no. 52, who is present in Court, undertakes that he will not use the marks 'BISLERI' or 'BISLE DEW' in respect of his products till the adjudication of his application under Order XXXIX Rule 4 of CPC.

23. The aforesaid statement of defendant no. 52 is taken on record.

24. The application stands disposed of.

25. Accordingly, the personal appearance of defendant no. 52 is dispensed.

**I.A. 42062/2024 (condonation of delay in filing written statement)**

26. By way of the present application, defendant no.52 seeks condonation of delay of 89 days in filing written statement.

27. The counsel for the plaintiff does not oppose the present application.

28. Accordingly, the application is allowed.

29. The delay of 89 days in filing the written statement is condoned and the same is taken on record.

**CS(COMM) 697/2019**

30. In view of the written statement filed by defendant no.52 being taken



on record, replication, if any, be filed within thirty days.

31. It is noted that several applications are pending in the suit.

32. Mr. Bhatnagar shall prepare a chart of pending applications and will take instructions as to which of the applications he wishes to press.

33. List before the Joint Registrar on 5<sup>th</sup> February, 2025 for completion of pleadings.

34. List the suit along with pending applications on 2<sup>nd</sup> April, 2025.

**AMIT BANSAL, J**

**DECEMBER 9, 2024**

*kd*