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

+ **TR.P.(C) 39/2016**

GODFREY PHILLIPS INDIA LIMITED Petitioner
Through: **Mr. Shobhit Agrawal, Adv.**

Versus

GIRNAR FOOD & BEVERAGES PVT LTD Respondent
Through: **Mr. Sushant Singh and Mr. Harshvardhan Pathak, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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14.09.2016

1. The transfer petition seeks transfer back to this Court of CS(OS) No.1703/2006, transferred, in accordance with Office Order dated 24th November, 2015 of Hon'ble the Chief Justice in exercise of powers under Section 4 of the Delhi High Court (Amendment) Act, 2015 and now stated to be pending in the Court of Ms. Sunena Sharma, Additional District Judge (South-East), Saket Courts, New Delhi.

2. It is the case of the petitioner that the subject suit is a suit for injunction and other reliefs against passing off and such a suit also falls within the first proviso to Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015 inasmuch as as per Section 134(1) of the Trade Marks Act, 1999, the suit does not lie in any Court inferior to District Court.

3. The counsel for the respondent also appears on advance notice and has no objection.
4. Though the learned Additional District Judge before whom the suit is now pending should not to have entertained the suit in accordance with the Office Order dated 28th April, 2016 and instead should have sent back the suit to this Court but the since the same has not been done, CSDJ/208901/2016 now pending in the Court of Ms. Sunena Sharma, Additional District Judge is recalled to this Court. The same be renumbered as a commercial suit and be listed before this Court on 25th November, 2016.
5. The petition is disposed of.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 14, 2016

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