

\$~7

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

+ **FAO(OS) (COMM) 142/2016**

M/S DARZI ON CALL

..... Appellant

Represented by: Mr.J Sai Deepak, Mr.Mohit
Goel, Mr.Sidhant Goel,
Mr.Bhardwaj Jai Shanker,
Ms.Pragya Mishra,
Mr.Ashutosh Nagar, and
Ms.Isha Tyagi, Advocates.

versus

SUNIL MITTAL & ANR

..... Respondents

Represented by: Ms.Pratibha M Singh, Senior
Advocate instructed by Mr.D.
K. Yadav and Mr.Devanshu
Khanna, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **20.12.2016**

CM Nos.46962-63/2016

Allowed subject to just exceptions.

FAO(OS) (COMM) 142/2016

1. The appellant is aggrieved by the grant of ex-parte ad-interim injunction granted against it on October 05, 2016 as also the order dated December 15, 2016 listing for January 02, 2017 the application for interim injunction filed by the respondent and the application filed by the appellant to vacate the ex-parte ad-interim injunction.

2. We find that after the ad-interim ex-parte injunction restraining the appellant from using the word ‘Darzi’ was issued on October 05, 2016. Thereafter the learned Single Judge considered IA No.15269/2016 filed by the appellant to vacate the injunction, and partially modified the ex-parte ad-interim injunction granted on October 05, 2016. The order dated December 07, 2016 posted the application for confirmation of injunction and the application for vacation thereof to be heard on December 15, 2016, on which date the learned Judge heard arguments on behalf of the appellant and because of paucity of time and the ensuring winter vacations, listed the matter on January 02, 2017.

3. Docket explosions in Courts need not be reiterated by us as a cause for matters to be adjourned. We find that learned Single Judge is according due consideration to the matter keeping in view the urgency of the issue.

4. At this stage, we do not find case made out to interfere in the instant appeal and thus while dismissing the same we permit the appellant to effect the deliveries to customers of 55 orders which were booked by the appellant before the ad-interim order was served upon the appellant. Record would be maintained.

5. We are partially intervening in the matter because third party rights have come into being and we do not want the appellant to be involved in litigation with third parties. Sales pursuant to 55 orders which have been booked would be documented and along with an affidavit the 55 orders booked and deliveries made pursuant thereto (along with record) shall be filed in the suit on or before the next date of hearing in the suit.

6. Learned counsel for respondent undertakes not to obtain any adjournment on January 02, 2017 and we expect the learned Single Judge would expeditiously decide the IA Nos.12499 and 15269 of 2016.

7. No cost.

PRADEEP NANDRAJOG, J

YOGESH KHANNA, J

DECEMBER 20, 2016

M